

2 APRIL 1947

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Of

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1 Wednesday, 2 April 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before with the
14 exception of: HONORABLE JUSTICE JARANILLA, Member
15 from the Republic of the Philippines, now sitting.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 - - -

19 (English to Japanese and Japanese
20 to English interpretation was made by the
21 Language Section, IMTPE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except OKAWA, MATSUI and TOGO who are represented by
5 their respective counsel. The prison surgeon of
6 Sugamo certifies that MATSUI and TOGO are too ill
7 to attend the trial today. The certificate will be
8 recorded and filed.

9 Major Moore.

10 LANGUAGE ARBITER (Major Moore): Mr. Presi-
11 dent, with the Tribunal's permission we present the
12 following language corrections:

13 Exhibit No. 2202A, record page 15,753, be-
14 tween lines 14 and 15 insert as headlines, "No
15 Decision to Increase Korea Divisions. Therefore
16 Dispatch of Troops not in question. War Minister
17 HINAMI's Statement."

18 Exhibit No. 74, record page 17,490, line 11,
19 substitute "Total War" for "Whole-Nation Combat."

20 THE PRESIDENT: Mr. OKAMOTO.

21 MR. T. OKAMOTO: Mr. President and Members
22 of the Tribunal, the defense desires to state that
23 during the recess we have made a substantial reduction
24 of our evidence in order to expedite the trial. The
25 prosecution has cooperated with us to this end by

1 entering into an arrangement in respect of certain
2 Sino-Japanese treaties. Mr. Levin will later report
3 to the Tribunal about the particulars of such arrange-
4 ment. Now I shall proceed with the presentation of
5 documentary evidence with your permission.

6 First of all, the defense will refer to
7 exhibit 21 (defense document 199) and exhibit 2298
8 (defense document 59) which are the peace treaty and
9 additional articles concluded between Russia and Japan
10 on September 5, 1905, whereby Japan succeeded to the
11 Russian rights in South Manchuria.

12 References are made to exhibit 2292 (defense
13 document 41), exhibit 2293 (defense document 55), and
14 exhibit 2294 (defense document 56), which are Anglo-
15 Japanese agreements of alliance concluded in 1902,
16 1905 and 1911, respectively. They will show that
17 Great Britain recognized special interests of Japan
18 in China in exchange of Japan's recognition of the
19 British special interests in India.

20 We now offer in evidence defense document
21 698 which is the Sino-Japanese treaty respecting South
22 Manchuria and Eastern Inner Mongolia, signed at
23 Peking on May 25, 1915. This is the famous Twenty-
24 one Demands, which was the cause of the Sino-Japanese
25 dispute for a long time, leading up to the Mukden

1 Incident. I should like to read this document in
2 order to show that it is a very simple and straight-
3 forward treaty and contains no aggressiveness in its
4 nature.

5 CLERK OF THE COURT: Are you offering it?

6 MR. T. OKAMOTO: Yes, I am offering it in
7 evidence.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Defense document No.
10 698 will receive exhibit No. 2383.

11 (Whereupon, the document above
12 referred to was marked defense exhibit No.
13 2383 and received in evidence.)

14 MR. T. OKAMOTO: I propose to read it.

15 "His Excellency the President of the Republic
16 of China and His Majesty the Emperor of Japan, having
17 resolved to conclude a Treaty with a view to develop-
18 ing their economic relations in South Manchuria and
19 Eastern Inner Mongolia, have for that purpose named
20 as their Plenipotentiaries, that is to say," -- I
21 will omit these names.
22

23 "Who, after having communicated to each other
24 their full powers, and found them to be in good and
25 due form, have agreed upon and concluded the follow-
ing Articles:

1 "Article 1. The two High Contracting Parties
2 agree that the term of lease of Port Arthur and Dalny
3 and the terms of the South Manchuria Railway and the
4 Antung-Mukden Railway, shall be extended to 99 years.

5 "Article 2. Japanese subjects in South Man-
6 churia may, by negotiation, lease land necessary for
7 erecting suitable buildings for trade and manufacture
8 or for prosecuting agricultural enterprises.

9 "Article 3. Japanese subjects shall be free
10 to reside and travel in South Manchuria and to en-
11 gage in business and manufacture of any kind whatso-
12 ever.

13 "Article 4. In the event of Japanese and
14 Chinese desiring jointly to undertake agricultural
15 enterprises and industries incidental thereto, the
16 Chinese Government may give its permission.

17 "Article 5. The Japanese subjects referred
18 to in the preceding three articles, besides being re-
19 quired to register with the local authorities pass-
20 ports which they must procure under the existing regu-
21 lations, shall also submit to the police laws and
22 ordinances and taxation of China.

23 "Civil and criminal cases in which the defend-
24 ants are Japanese shall be tried and adjudicated by
25 the Japanese Consul; those in which the defendants

1 are Chinese shall be tried and adjudicated by Chinese
2 authorities. In either case an officer may be deputed
3 to the court to attend the proceedings. But mixed
4 civil cases between Chinese and Japanese relating to
5 land shall be tried and adjudicated by delegates of
6 both nations conjointly in accordance with Chinese
7 law and local usage.

8 "When, in future, the judicial system in the
9 said region is completely reformed, all civil and
10 criminal cases concerning Japanese subjects shall
11 be tried and adjudicated entirely by Chinese law
12 courts.

13 "Article 6. The Chinese Government agrees,
14 in the interest of trade and for the residence of
15 foreigners, to open by China herself, as soon as
16 possible, certain suitable places in Eastern Inner
17 Mongolia as Commercial Ports.

18 "Article 7. The Chinese Government agrees
19 speedily to make a fundamental revision of the Kirin-
20 Changchun Railway Loan Agreement, taking as a stand-
21 ard the provisions in railway loan agreements made
22 heretofore between China and foreign financiers.

23 "When, in future, more advantageous terms
24 than those in existing railway loans, the above agree-
25 ment shall again be revised in accordance with Japan's

1 wishes.

2 "Article 8. All existing treaties between
3 China and Japan relating to Manchuria shall, except
4 where otherwise provided for by this Treaty, remain
5 in force.

6 "Article 9. The present Treaty shall come
7 into force on the date of its signature. The present
8 Treaty shall be ratified by His Excellency the Presi-
9 dent of the Republic of China and His Majesty the
10 Emperor of Japan, and the ratifications thereof shall
11 be exchanged at Tokyo as soon as possible."

12 I will omit the next paragraph.

13 "Done at Peking this twenty-fifty day of
14 the fifth month of the fourth year of the Republic
15 of China, corresponding to the same day of the same
16 month of the fourth year of Taisho, that is, 1915."

17 Reference is made also to exhibit 2317
18 (defense document 52) which is the so-called Lansing-
19 ISHII Agreement of November 2, 1917 whereby the
20 United States recognized that Japan has special
21 interests in China, particularly in the part to which
22 her possessions are contiguous.

23 THE PRESIDENT: Mr. Comyns Carr.

24 MR. COMYNS CARR: Your Honor, while this
25 document has been admitted in evidence, so also was

1 defense exhibit 2318 which shows that the agreement
2 was cancelled in 1922. My friend is not referring to
3 that now, but we thought it right the Court should be
4 reminded of it.

5 THE PRESIDENT: It was admitted not to
6 prove its present existence but to show that its terms
7 were reasonable, or so I understood.

8 MR. T. OKAMOTO: In reference to that ques-
9 tion, we offer in evidence defense document 383 which
10 is an excerpt certified by the Foreign Office of a
11 book entitled "Diplomatic Commentaries" by Viscount
12 ISHII whose very words are quoted in the Lytton Re-
13 port as expressing the general view of his country-
14 men.

1 THE PRESIDENT: Mr. Comyns Carr.

2 MR. COMYNS CARR: The prosecution objects
3 to this document. It is an argument and a conclusion.
4 No doubt it is quoted in the Lytton Report as such,
5 but in our submission that doesn't make the rest of
6 it admissible in evidence as establishing any facts.

7 MR. T. OKAMOTO: May I say a few words in
8 reply? This document was translated and edited by
9 Mr. Langdon, at one time American Consul in Mukden.

10 I respectfully call the attention of the
11 Tribunal to the fact that such edition of Mr.
12 Langdon was done in April 1931, a few months prior
13 to the Mukden Incident, and that this excerpt deals
14 with such questions as Japanese diplomacy toward
15 China and Japan's special interests in China.
16 Viscount ISHII was the Foreign Minister during
17 the period of 1915-1916 and the special envoy to
18 the United States in 1917 to conclude the above
19 mentioned Lansing-ISHII agreement. I am sure
20 that he was fully qualified to explain what attitude
21 he took at that time as the representative of the
22 Japanese government and also explain what was meant
23 by the words "Japan's special interests in Manchuria."

24 I especially refer to the statement on
25 page 12, that is to say, chapter 6, "Japan's

1 special interests in China," of this excerpt, and I
2 submit, respectfully, that these are the statements
3 of facts and not his opinion.

4 THE PRESIDENT: Did you suggest that it
5 was evidence of the state of mind of the Japanese
6 before the Mukden Incident?

7 MR. T. OKAMOTO: I suggest that Viscount
8 ISHII's statement here is the explanation which
9 Japan took at that time just prior to the Mukden
10 Incident.

11 THE PRESIDENT: Was this statement made
12 while Viscount ISHII was Foreign Minister?

13 MR. T. OKAMOTO: No, sir. He wrote this
14 book after he resigned as Foreign Minister.

15 THE PRESIDENT: By a majority the Tribunal
16 upholds the objection and rejects the document.

17 MR. T. OKAMOTO: Next, reference is made to
18 exhibits 2319 and 2319-D, defense document numbers
19 200 and 200-D, and in particular to appendix I, of
20 No. 2319-D, which shows the conditions of bandits
21 in Manchuria at the time of the Washington Conference.
22 As this part of the exhibit was not read at the time
23 of its introduction, I wish to read it if the
24 Tribunal would allow me. It won't be more than
25 half a page.

1 May I read it, sir?

2 THE PRESIDENT: You may.

3 MR. T. OKAMOTO: Appendix I, of exhibit
4 2319-D: (Reading)

5 "Regarding the present situation in
6 Manchuria, even in and around the South Manchurian
7 Railway Zone, where peace and order are well main-
8 tained, the Chinese bandits have often made raids,
9 having evaded the supervision of the Japanese
10 railway guards.

11 "The facts above mentioned are clearly
12 shown in the attached lists No. A and No. C.

13 "The condition of lawlessness and unrest
14 prevailing in the interior of Manchuria far from
15 the Railway Zone is beyond description. The
16 attached list No. B shows the number of cases of
17 attacks made on the Japanese by the Chinese bandits
18 while the Japanese were traveling through those
19 parts of Manchuria.

20 "The actual cases of attacks made by
21 them have been far more than we have shown here,
22 because in the attached list we have mentioned
23 only the ones which were reported to the Japanese
24 authorities.

25 "The number of cases of attacks made by

1 them on the Koreans might be still greater. But
2 most of the Koreans' cases are not reported to
3 the Japanese authorities for fear of a retaliation
4 by the bandits.

5 "The condition is worse in North Man-
6 churia.

7 "In the region along the Chinese Eastern
8 Railway where they have the Chinese railway guards
9 we are informed that there were 50 cases of attacks
10 made by the bandits during the months of April and
11 May, 1921.

12 "The forces of the bandits numbered from
13 50 to 400 men in each case and they committed every
14 kind of ravage.

15 "The outrages committed by the Chinese
16 bandits in Chien-Tao last year well demonstrate
17 the fact that lawlessness and disorder are prevailing
18 in that part of Manchuria.

19 "In the worst case, the Chinese bandits
20 made three attacks in the daytime on the city of
21 Hungchung, near the Japanese border line, regardless
22 of the fact that the Chinese troops were stationed
23 in that city, and not only the Japanese Consulate was
24 burned but also a number of the Japanese were
25 massacred by them."

1 I won't read these papers, your Honor.

2 We next offer in evidence defense document
3 254, which is a report of September 14, 1926, from
4 the Japanese Consul General at Tientsin to the
5 Japanese Foreign Minister, concerning the movement
6 for the restoration of the former Emperor, Pu-Yi,
7 to the throne of China.

8 THE PRESIDENT: Mr. Comyns Carr.

9 MR. COMYNS CARR: If it please your Honor,
10 the prosecution objects to this document as irrelevant
11 and immaterial. It purports to show that a par-
12 ticular named Chinaman talked to this consul in
13 1926 about his desire and that of certain of his
14 friends that the imperial family should be restored
15 to rule in China.

16 MR. T. OKAMOTO: May I say some words,
17 your Honor?

18 MR. COMYNS CARR: I would like to finish,
19 your Honor.

20 It also shows that the consul didn't agree
21 with him.

22 MR. T. OKAMOTO: That is the reason why --

23 MR. COMYNS CARR: Let me finish.

24 In my submission, the views of neither
25 gentleman have any bearing on the issues in this

1 case, nor is it material whether there was or was
2 not a monarchist party in China in 1926.

3 MR. T. OKAMOTO: If your Honor please,
4 I submit this document in order to prove that the
5 Lytton Report was somewhat mistaken in stating
6 that there were no independence movement in Man-
7 churia, referring to this period -- to these days.

8 THE PRESIDENT: This isn't evidence of any
9 movement, is it? It is only the evidence of the
10 opinion of one person. Does it disclose Pu-Yi's
11 attitude?

12 MR. T. OKAMOTO: No, it does not show Pu-
13 Yi's attitude, but the attitude of other Chinese
14 who were the followers of Pu-Yi. And also, there
15 is a second reason: that Japanese government at
16 that time do not -- did not agree to these restora-
17 tion movements or independence movement. And,
18 further --
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1 THE PRESIDENT: I have repeatedly said here
2 in my view the question is whether the Japanese took
3 advantage of an independence movement, if there was
4 one, or themselves started one.

5 MR. T. OKAMOTO: In any case I think it is
6 necessary to show the historical background leading
7 up to the Mukden Incident in reference to these inde-
8 pendence movements.

9 THE PRESIDENT: The answer is very tersely
10 put by one of my colleagues: One swallow does not
11 make a summer; the opinion of one Chinaman does not
12 make an independence movement.

13 The objection is upheld. The Court rejects
14 the document.

15 MR. T. OKAMOTO: Then we offer defense document
16 596 in evidence. This is an instruction of June 17,
17 1927, to the Japanese Consul General at Tientsin from
18 the Japanese Foreign Minister, concerning the intended
19 trip to Japan of the ex-emperor Pu-Yi. This will show
20 the attitude of Japan toward him and his restoration
21 movement.

22 THE PRESIDENT: Mr. Comyns Carr.

23 MR. COMYNS CARR: In our submission it is
24 immaterial whether the Japanese Government in 1927
25 did or did not welcome a proposed visit by Mr. Pu-Yi

1 to Japan. It has no bearing, in our submission, on
2 the questions before the Tribunal. In our submission
3 the reasons why the Japanese Government did or did
4 not desire Mr. Pu-Yi to visit Japan at that particular
5 moment cannot assist the Tribunal.

6 MR. T. OKAMOTO: I think it is material and
7 relevant to the cause, and shows the traditional policy
8 of the Japanese Government in respect to the restora-
9 tion of Pu-Yi to the throne and to his movements.
10 Especially the WAKATSUKI Cabinet in 1931 followed
11 the same traditions of the Japanese Government.

12 THE PRESIDENT: Well, it appears to be remote,
13 but nevertheless it will be admitted for what it is
14 worth.

15 The objection is overruled.

16 MR. T. OKAMOTO: Thank you.

17 CLERK OF THE COURT: Defense document 596
18 will receive exhibit No. 2384.

19 (Whereupon, the document above re-
20 ferred to was marked defense exhibit No.
21 2384, and was received in evidence.)

22 MR. T. OKAMOTO: I propose to read it.

23 "Strictly confidential No. 93. Tokyo, June
24 17, 1927.

25 "To: Consul General KATO at Tientsin.

"From: Foreign Minister Baron TANAKA, Giichi.

"Subject: Trip of the Emperor Hsuantung to Japan, Port Arthur, and Dairen.

"A gist of the above mentioned matter has already been communicated to you by telegram. For your reference we are forwarding the protocol, 'Trip of the Emperor Hsuantung to Japan, Port Arthur, and Dairen attached hereto.' Please keep yourself fully informed on the subject.

"Copy sent to: The Minister in China.

"Trip of the Emperor Hsuantung to Japan, Port Arthur, and Dairen.

"I. Circumstances concerning this matter to date

"(1) In November 1924 when the Emperor Hsuantung took refuge in our Legation in China, we communicated by telegram to Minister YOSHIKAWA in China as follows:

"If the Emperor comes to Japan or goes to the Kwantung Province, he may be utilized by the Tsungshu Party, or it may give rise to various movements around him. This may cause a situation disadvantageous not only to us but also to the Emperor himself. Such a matter, therefore, must be avoided."

"In December of the same year, while staying

1 in our Legation, the Emperor told Minister YOSHIKAWA
2 that he wished to visit Japan.

3 "The Minister, considering it proper for Japan
4 to agree to the Emperor's visit to Japan for the follow-
5 ing reasons, requested instructions for reply to the
6 Emperor's proposal, taking the following factors into
7 consideration:

8 "(a) The Emperor Hsuantung, to whom our
9 Imperial House is dear, holds an ardent desire to pay
10 respects to our Imperial House.

11 "(b) While there is a prospect in future of
12 many Chinese political refugees visiting Japan, it will
13 not be reasonable if we give permission to these people
14 and not to the Emperor.

15 "(c) If the Emperor takes refuge in another
16 country as a result of our not permitting him to come
17 to Japan, it may affect our prestige.

18 "To this request instructions were dispatched
19 by the Foreign Minister that the Emperor's taking
20 refuge in Japan should be avoided, in view of our policy
21 heretofore pursued, particularly for three reasons:

22 "(a) Although our government deeply sympa-
23 thizes with the Emperor's situation, it is difficult
24 for us to arrange for his visit to our Imperial House
25 at this time.

"(b) Being different from a visit to Japan by

1 other ordinary political refugees, the Emperor's visit
2 to Japan requires very delicate considerations in view
3 of his status and his connection with the Tsungshe
4 Party.

5 "(c) Even if the Emperor does take refuge in
6 another country, there is no need of considering it as
7 a question of our prestige.

8 "(2) In February 1925 the Emperor Hsuantung
9 moved to Tientsin and has been staying there ever since.
10 We, however, have followed a consistent policy as pur-
11 sued heretofore in regard to the Emperor's visit to
12 Japan or his moving to Kwantung Province. Recently,
13 however, those close to the Emperor, driven by appre-
14 hensions for the safety of the Emperor as ever, fear
15 that he will not be safe considering the present situa-
16 tion, and are plotting a movement secretly to remove the
17 Emperor to Japan or the Port Arthur-Dairen area."

18 Next page.

19 "(a) Under the present political situation
20 in China, especially today when Tuan Chi-jui and many
21 other Chinese political leaders are taking refuge in
22 the Port Arthur-Dairen district, the moving of the
23 Emperor in that direction will not attract the attention
24 of the people so much, nor will it give rise to evil
25 propaganda about the Emperor's relationship with Japan.

1 "(b) From the standpoint of the Emperor's
2 finance also, it will be advantageous for him to plan
3 for his future living by investing money in real estate
4 today while prices in the Port Arthur-Dairen area are
5 not yet raised."

6 I will return to page 3 to the paragraph which
7 I have deleted.

8 "However, at the same time as far as the time
9 seems to have been reached when a sympathetic considera-
10 tion should be given to the desire of those close to
11 the Emperor mentioned previously; Councillor ARITA,
12 former Consul General in Tientsin who returned recently,
13 is of the same opinion. Minister YOSHIKAWA in China,
14 however, forwarded his view by telegram stating that
15 the Emperor's removal to Japan is more advantageous
16 both to Japan and to the Emperor himself for two
17 reasons:

18 "(a) The removal of Emperor Hsuantung to
19 Kwantung Province will add data anew to the question
20 of China's claim for recovering Port Arthur and Dairen
21 which will perhaps arise when the southern influence
22 reaches the whole North China area.

23 "(b) It will be natural even if the Emperor
24 moves to Kwantung Province that it will more or less
25 attract the people's attention.

1 "The telegram also stated that Minister
2 YOSHIKAWA had no special objection to the Emperor's
3 removal to Kwantung Province, and that in any event
4 the Emperor's residence in the Tientsin concession
5 would become dangerous judging from recent conditions.

6 "II. Plan for the steps to be taken con-
7 cerning this case.

8 "It is recalled in this connection that, when
9 the question of the Emperor Hsuantung's visit to Japan
10 came up some years ago, those related to the Imperial
11 Household stressed the argument that the presentation
12 of the miserable appearance of an abdicated emperor
13 to the general public of Japan would result in showing
14 a living example to some people who have dangerous
15 ideas and the effect would not be good. As it was
16 considered necessary to know the opinion of the Imperial
17 Household Department previously concerning the Emperor
18 Hsuantung's intended visit to Japan at this time,
19 Foreign Minister TANAKA sounded the view of the said
20 Department. It was found that no objection would be
21 raised if the Emperor comes to Japan as a political
22 refugee, but it would be difficult for Japan to extend
23 him special treatment as an abdicated Emperor of a
24 large neighboring nation, as those close to the Emperor
25 expected. It was mentioned, for instance, that, even

1 if the Emperor wished to visit our Imperial Family
2 or come to take refuge in Japan on board our warship,
3 such a request would not be acceptable.

4 "In short, if the Emperor Hsuantung would be
5 satisfied with the same treatment as that given to
6 ordinary political refugees of China, without request-
7 ing special treatment as an abdicated Emperor, we have
8 no objection to his coming to Japan or to the Port
9 Arthur-Lairen region. It is considered desirable to
10 instruct the Consul General in Tientsin at this time
11 that the above consideration shall be explained to
12 those close to the Emperor at an appropriate time."
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1 We next offer in evidence defense document
2 No. 307. This is a report of January 11, 1929,
3 from the Chief of Public Safety Bureau of the Kwan-
4 tung Government to the Chief of Colonial Bureau of
5 the Japanese Cabinet and other officials concerned,
6 with regard to a movement for the restoration of
7 Chin Dynasty in Manchuria, the leader of which was
8 Kun Chin-wang, i.e., uncle of Pu-Yi.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Defense document No. 307
11 will receive exhibit No. 2385.

12 (Whereupon, the document above re-
13 ferred to was marked defense exhibit No. 2385
14 and received in evidence.)

15 MR. T. OKAMOTO: I propose to read it.

16 "Kwantung Police No. 400(2)(Secret)

17 "January 11, 1929.

18 "To: Chief of Colonial Bureau of the
19 Cabinet, etc:

20 "From: Chief of Public Safety Bureau of
21 Kwantung Government.

22 "Subject: Plan to support Kung Chin-Wang.

23 "The movement for supporting Kung Chin-Wang
24 has been tried many times in the past. No concrete
25 development, however, has been seen yet because of

1 the lack of funds and other reasons. Recent information
2 reveals that connection between the bandits in North
3 China and the dissatisfied elements in Mukden has
4 been established. It is also reported that Pa, Com-
5 mander of Heihochen and concurrently Commander of the
6 Second Cavalry Division, came to a secret agreement
7 with Cheng, Commander of Heiho First Division. More-
8 over, they came to some sort of understanding with
9 Chang Hai-Peng. Through these hands a considerable
10 number of supporters have been secured in various
11 parts. Recently they started organization of the
12 Three Eastern Provinces Independence army, which is
13 divided into three parts, viz: Dragon Army (organized
14 in Three Eastern Provinces), Ching Army (organized
15 by bandits in Jehol area), and the Fly Army (organ-
16 ized in Shantung and Chihli area). Keeping contact
17 with each other they are planning to raise the Yellow
18 Dragon Flag in the Three Eastern Provinces at a cer-
19 tain time and hoist the signal for independence.
20 Until such time comes, these independence armies
21 will attack local wealthy families to raise funds.
22 At the same time, efforts will be made to seek under-
23 standing by persuasion with the local provincial
24 governors. All preparations are made by Pa, Commander
25 of Heihochen, and Cheng, Commander of the First

1 Division. They distributed secretly the following
2 propaganda bills to urge the cause of Kung Chin-
3 Wang. Developments are being carefully watched.

4 "In Praise of Kung Chin-Wang.

5 "Proclamation: The Three Eastern Provinces
6 are Prince Kung's Eastern Province and our fathers
7 and children are his intimate friends. Our fore-
8 fathers shared pleasure and pain with his ancestors
9 for three hundred years as one day. Since Chang
10 Tso-Lin captured the Three Eastern Provinces, how-
11 ever, good people have suffered from his evil gov-
12 ernment and neighboring powers have interfered in
13 our domestic affairs. For this reason, heavenly
14 punishment was inflicted upon him and he fell under
15 a bomb. His son, Chang Hsueh Liang, who succeeded
16 him, is worse than his father, to such an extent
17 that the land has been turned red and the sufferings
18 of the people are beyond description. Chin Wang
19 adores the country, thinks of his native land and
20 moves his people. Leading half a million soldiers,
21 he will raise armies to save his people in distress,
22 driving our enemy Chang Hsueh Liang away, and rehabi-
23 litating the Three Eastern Provinces. He considers
24 the welfare of the people to be his religion, will
25 improve government, promote friendship with good

1 neighbors and make the termination of the war as his
2 prime object. He will make the Three Eastern Pro-
3 vinces an independent land, and will not interfere
4 with anything south of the Great Wall. He takes the
5 Yellow Dragon Flag as the national flag of the Three
6 Eastern Provinces, and corrects the evils of the
7 soldiery. Those who follow him will survive, but
8 those hostile to him will perish. All the people
9 will enjoy work. The Prince will protect all local-
10 ities alike. All civil and military officials who
11 surrender voluntarily will be well treated. Those
12 who are opposed will be killed and their properties
13 confiscated. Ten Rules are hereby proclaimed for
14 everybody to observe.

15 "Ten Rules.

16 "1. Chin Wang will maintain independence
17 of the Three Eastern Provinces, and will not inter-
18 fere with anything south of the Great Wall. He will
19 make the people's welfare his religion, improve gov-
20 ernment, promote friendship with neighboring nations,
21 make the termination of war his ultimate object,
22 will eradicate the results of the evil **acts** of Chang,
23 father and son, and make the Yellow Dragon Flag the
24 national flag of the Three Eastern Provinces.
25

"2. China and Japan are old civilized

1 countries, and the Three Eastern Provinces are
2 specially related to Japan. The Prince will establish
3 all government policies on the basis of sincere friend-
4 ship with Japan so that both countries may enjoy the
5 same profits.

6 "3. The economic relations between Europe-
7 America and China being satisfactory, all properties
8 of the people in the Three Eastern Provinces will be
9 protected as far as possible, and all affairs dis-
10 posed of in accordance with the past usage.

11 "4. The railway treaties will be observed
12 as in the past.

13 "5. The people in the Three Eastern Pro-
14 vinces will be protected by the local civil and
15 military officials. Whenever they receive unreason-
16 able treatment, their claims will be heard.

17 "6. Various princes in Mongolia having the
18 same custom as, and being friendly with, the Man-
19 churian and Han races, they will be protected as far
20 as possible.

21 "7. If civil or military officials surrender,
22 they will be allowed to hold offices as in the past,
23 and will be well treated. If they are opposed, they
24 will be punished without mercy.

25 "8. If the armies in the Three Eastern

1 Provinces surrender, they will be well treated and
2 promoted by merits. If they do not, they will be
3 arrested and punished by death, and their families
4 will be treated likewise and their properties con-
5 fiscated.

6 "9. Though the bandits in the Three Eastern
7 Pr. vinces came from good families, they fell into
8 the present plight because of ill-treatment of Chang,
9 father and son. If they repent their past errors
10 they will be employed by the government in the
11 uniform way.

12 "10. As all public affairs are too compli-
13 cated, they will be simplified by Chin Wang, and good
14 government will be instituted gradually leading to
15 peaceful life.

16 "Seventeenth Year of the Chinese Republic."

17 Next we offer in evidence defense document
18 No. 676, a report of February 5, 1929, from the
19 Japanese Charge d'Affaires ad interim in China, to
20 the Japanese Foreign Minister, concerning the pro-
21 mulgation of the regulations for the confiscation of
22 Japanese goods.

23 THE PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document
25 No. 676 will receive exhibit No. 2386.

1 (Whereupon, the document above re-
2 ferred to was marked defense exhibit No. 2386
3 and received in evidence.)

4 MR. T. OKAMOTO: I propose to read it.

5 "Official Note from HORI, Yoshitaka, Charge
6 d'Affaires ad interim to China, to Baron TANAKA,
7 Giichi, Foreign Minister, dated February 5, 1929.

8 "Subject: Concerning Promulgation of the
9 Regulations for Confiscation of Japanese Goods.

10 "It has been reported that the Anti-
11 Japanese Society note issued under date of 2nd inst.
12 What they call the Regulations for Confiscation of
13 Japanese Goods, the text of which was published in
14 the papers, I hereby submit for your information the
15 translation of same as per enclosure.

16 "Regulations for the Confiscation of
17 Japanese Goods.

18 "Article 1. Such Japanese goods held in
19 stock by merchants in this city as have not been
20 registered after lapse of the time-limit of regis-
21 tration, i.e. November 26, 1928, shall all be con-
22 fiscated.

23 "Article 2. Such Japanese goods ordered
24 before November 26, 1928, and not yet arrived, as
25 have not been registered at this Society according

1 to written orders within the term of registration,
2 shall be confiscated upon their arrival at Peiping.

3 "Article 3. Japanese goods ordered on and
4 after December 1, 1928, shall all be confiscated,
5 provided, however, that this is limited to goods
6 under the absolute ban.

7 "Article 4. With regard to Japanese goods
8 under the relative ban, contributions towards the
9 Save-the-nation Fund shall still be collected in
10 accordance with the Registration Regulations established
11 by the National Anti-Japanese Society.

12 "Article 7. In case a commercial house has
13 registered Japanese goods and received Save-the-nation
14 Fund slips, but has failed to affix the same to the
15 goods, or in case the number on an affixed slip does
16 not tally with that on the register, such goods shall
17 be confiscated.

18 "Article 8. In case, with regard to Japanese
19 goods to be confiscated according to the provisions
20 of the present Regulations, the treacherous merchant
21 has resisted confiscation, or has by other means made
22 confiscation impossible, the said merchant shall be
23 taken to this Society and handed over to the **Judgement**
24 Committee, which will try him and punish him."

25 Next we offer in evidence defense document

1 No. 481. This is a report of April 24, 1929, from
2 the Japanese Consul at Kirin (Manchuria) to the
3 Japanese Foreign Minister, concerning the secret order
4 issued by the Chinese authorities, strictly prohibiting
5 the lease of house sites to the Japanese.

6 THE PRESIDENT: Mr. Comyns Carr.

7 MR. COMYNS CARR: We object to this document
8 on two grounds. In the first place, on the ground
9 that the subject is in any case irrelevant, and in
10 the second place, on the ground that it is only re-
11 porting a rumor. It says that the person making the
12 report made inquiries and found it was probably a
13 fact that the prefectural government issued a secret
14 circular. In our submission, for those two reasons
15 the document has no probative value and deals with an
16 irrelevant subject.

17 THE PRESIDENT: The first ground equally
18 struck the last document admitted. As to the second
19 ground what have you to say?
20

21 MR. T. OKAMOTO: That is based on official
22 reports received from the Consul General at Tielin
23 and various other places in Manchuria, received by the
24 Foreign Office, and whether it is rumor or not that
25 is not the question at all in this connection. These
reports affected the attitude of the Japanese govern-

1 ment in any case at that time.

2 THE PRESIDENT: The Court by a large majority
3 admits the document. The objection is overruled.
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CLERK OF THE COURT: Defense document
No. 481 will receive exhibit No. 2387.

(Whereupon, the document above
referred to was marked defense document
No. 2387 and received in evidence.)

MR. T. OKAMOTO: And I propose to read.

"April 24, the fourth Year of Showa (1929)
at Tielin.

"From: KONDO, Shinichi, Consul at Tielin
(Manchuria).

"To: Baron TANAKA, Giichi, Foreign Minister.

"Subject: On the Secret Order issued by the
Chinese Authorities, strictly prohibiting the lease
of house-sites to the Japanese.

"As already stated in our report, Confidential
No. 150, dated April 20, the Governor of Tielin-
Hsien (TN hsien is a prefectural unit of local govern-
ment) issued a proclamation prohibiting private
lease or sale of land to a foreigner, under the in-
struction of the Provincial Government which was
transmitted by the circular issued by the General
Headquarters of Border Garrison. Having kept a watch
on the matter, we found that it was probably a fact
that the Prefectural Government issued a secret
circular to all civil organs, large and small, to

1 insure thorough enforcement of the previous procla-
2 mation. It says that all leases of house-sites to
3 Japanese residents outside the S. M. Railway Zone at
4 Tielin shall be strictly prohibited and those in
5 existence shall be recovered as soon as possible
6 with the view to prevent possible disputes, any act
7 contrary to the regulation being severely punished.

8 "A comparatively large number of Japanese
9 have leased land outside the railway zone, namely,
10 in the open-port quarter and within the city wall,
11 some of them being confronted with the expiration of
12 the terms during this year. In such a time and
13 circumstance, it is rather difficult to foresee
14 what an attitude the Chinese landlords might take
15 in the future, but I will take a firm stand and
16 timely action in making a strong protest against
17 such an anti-Japanese action in order to check
18 further undesirable effect whenever it might happen
19 without justifiable reasons in the town adjoining
20 to the railway zone. Judging from present status
21 of our countrymen here, I am afraid that the Chinese
22 side would take advantage of this opportunity in
23 trying to recover the land when the term of lease
24 expires this summer, and rather complicated questions
25 might arise in succession. Some Japanese may be

1 delinquent in payment of rent, while others may be
2 in default of obligations, owing to the depression
3 which made them difficult to meet their debts owed
4 to the Chinese during the boom in the past.

5 "Such cases as nonpayment of rent pending
6 for many years, will supply, I fear, good excuse
7 to the Chinese side to recover the land and un-
8 pleasant circumstances must be taken into considera-
9 tion when we start negotiations on the questions
10 arising from the failure of payment. The Chinese
11 side seems to be taking a cautious attitude in
12 avoiding to come in contact with Japanese, and the
13 Chinese officials are guiding the people on this
14 line.

15 "Accordingly the Chinese official attitude
16 is expected to be more meddlesome not only in the
17 lease of house or lands but also in the general
18 commercial transactions."

19 We offer in evidence defense document 482.
20 This is a report under date of August 2, 1929, from
21 the Japanese Director of the Bureau of Police
22 Affairs in the Kwantung Province, to the Japanese
23 Vice-Minister of Overseas Affairs and other function-
24 aries, concerning the Chinese regulations prohibiting
25 sale of lands to foreigners.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Defense document
3 No. 482 will receive exhibit No. 2388.

4 (Whereupon, the document above
5 referred to was marked defense document No.
6 2388 and received in evidence.)
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1 MR. T. OKAMOTO: I propose to read.

2 "From: Director of the Bureau of Police
3 Affairs, Government-general of Kwantung.

4 "To: Vice-Minister of Overseas Affairs.
5 Chief secretary of the Cabinet. Vice-Minister of
6 Foreign Affairs. Director of Police Bureau, Ministry
7 of Home Affairs. Chief of Staff, Kwantung Army. Chief,
8 Kwantung Gendarmerie. Naval Resident Officer of Kwan-
9 tung Leased Territory. Chief, Information Section of
10 S.M. Rly. Co.

11 "Subject: An act prohibiting Unlawful Sale
12 or Disposition of National Lands.

13 "Having been irritated by the case of Chikun
14 Taipao Industrial Company's farm at Hsinmintun, Liaonin
15 Province and the question of cutting off the Peiling
16 Railway, etc., the Chinese authorities decided to pro-
17 hibit unlawful sale of land with the death penalty and
18 drafted an act for the purpose of preventing the loss
19 of national lands and interests.

20 "The act was passed at the 46th Conference of
21 the Provincial (T.N. Executive) Council held on 24 inst.
22 The North Eastern Political Council has sent the act to
23 the Central Government in Nanking for sanction.

24 "The Act reads as follows: Provisional Act
25 to prohibit with penalty Unlawful Sale or Disposition

1 of National Lands.

2 "Article 1. A person who sells, mortgages
3 or leases to foreigners lands, houses, hill-wastes,
4 forests, or mines owned by himself, third persons or
5 by the public or the state, without permission of the
6 authorities concerned shall be condemned as guilty of
7 unlawful sale of national lands (T.N. The term
8 'national land' here simply means all sorts of real
9 estate) and be punished in accordance with the pro-
10 visions of this Act.

11 "Article 2. Any act of acceptance by a
12 foreigner, of whatever nationality he may be, of
13 national lands designated in the foregoing Article and
14 sold unlawfully by Chinese shall be regarded to be
15 null and void by the Provincial Government.

16 "Article 3. A person who unlawfully disposes
17 of national lands shall be punished with the following
18 penalty:

19 "(1) A person who disposes unlawfully of land
20 owned either by the State, the public or a third person
21 shall be punished by death.

22 "(2) A person who disposes unlawfully of
23 national lands owned by himself, shall be punished
24 either by death or by penal servitude for life.

25 "A person who committed the crimes mentioned

1 in the foregoing items shall be fined up to the
2 amount of the sale in addition to the execution of
3 the penalty, and a whole or part of his property shall
4 be seized and confiscated.

5 "Article 4. A person who has become a
6 nominal owner in order to purchase stolen (T.N. Un-
7 lawfully disposed) national lands designated in the
8 Article One of this Act receiving supply of fund from
9 foreigners for the purpose shall be punished according
10 to the Provision Two of the Article Three of this Act
11 with a possible mitigation.

12 "Article 5. Middleman and consignatories in
13 the case of unlawful disposition of national lands
14 shall be regarded as accomplices and punished with the
15 penalty of one or two grades lighter than that for
16 the principal offender."

17 THE PRESIDENT: The certificate shows the
18 date is the second of August, 1929.

19 MR. T. OKAMOTO: That is right, sir.

20 We next offer in evidence defense document
21 480 which is a report of August 19, 1929, from the
22 Japanese Consul General at Chientao to the Japanese
23 Foreign Minister, concerning the Chinese proclamation
24 to enforce the regulations on the lease of land to
25 Korean farmers.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Defense document No. 480
3 will receive exhibit No. 2389.

4 (Whereupon, the document above
5 referred to was marked defense exhibit No. 2389
6 and received in evidence.)

7 MR. T. OKAMOTO: I propose to read it.

8 "Confidential 952. August 19, the Fourth
9 Year of Showa (that is, 1929) at Chientao.

10 "From: OKADA, Kenichi, Consul General at
11 Chientao.

12 "To: BARON SHIDEHARA, Kijuro, Foreign
13 Minister.

14 "Subject: On the Proclamation of and the
15 Instruction to enforce the Regulation of the Lease of
16 Arable Waste Land to Korean Farmers enacted by Chinese
17 Authorities. (Report from the Chief of Police Sub-
18 station at Toutaokou, Hunchun, Manchuria).

19 "Regarding to the subject, Chang-Tso hsiang,
20 Chief of the Provincial Government of Kirin, is said
21 to have enacted and proclaimed Regulations on the Lease
22 of Arable Waste Land to Korean Farmers dated the 2d day
23 of August and given the following instruction to the
24 Governors of all hsiens (T.N. Prefecture). The gist of
25 the regulation transmitted by the Governor of Hunchun-

1 Hsien to all village heads under his jurisdiction reads
2 as follows: As it aims at restricting ownership of
3 land by Koreans, its enforcement is expected to have
4 a considerable influence.

5 "We are carefully watching the trend of the
6 situation.

7 "Remarks: In view of the tendency of gradual
8 increase of Korean farmers immigrating into our province
9 from Korea, the Provincial Government enacted a regula-
10 tion on the lease of arable waste land to Korean farmers
11 in order to secure the living conditions of the local
12 inhabitants and the poor immigrants pouring in from
13 those localities as Shantung, Hopei, etc., as well as
14 to check rapid increase of Koreans. We hope that all
15 prefectural authorities do their best in enforcing the
16 regulation by supervising the organs under their juris-
17 diction.

18 "Article 1. This regulation shall be applied
19 to Korean residents within the Province of Kirin.

20 "Article 2. All Korean residents within the
21 Province shall, whether they are nationalized or not,
22 have no right to acquire arable waste lands.

23 "Article 3. Koreans are prohibited to apply
24 to the competent authorities for the lease of arable
25 waste lands.

1 "Article 4. This regulation shall be applied
2 to the Koreans who have already received the permis-
3 sion of the reclamation office with the object to
4 possess the arable waste land before the proclamation
5 of the regulation and are already in the act of re-
6 claiming it.

7 "Article 5. Any Korean who has received
8 the foregoing permission and cultivating the waste land
9 made it matured shall be entitled to the right of its
10 possession.

11 "Article 6. Farmers to be employed in the
12 reclamation work of waste land shall be mainly Chinese,
13 whether it is managed by the authorities or by the
14 civilians, provided that this article shall not be
15 applied to the cultivation of rice fields."

16 THE PRESIDENT: This is a convenient break.
17 We will recess for fifteen minutes.

18 (Whereupon, at 1045 a recess was taken
19 until 1100, after which the proceedings were
20 resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 MR. MIMASHI: MIMASHI, counsel for the
4 accused KOISO.

5 If the Court please, I should like to make
6 a brief statement. During the recess, when the
7 screening of defense documents was undertaken, a
8 number of documents which this counsel wished to
9 tender to the Court as evidence were denied by rule
10 of the majority of the defense counsel. Although
11 naturally there are differences of opinion among
12 different counsel, yet this counsel -- that is, I
13 believe that there are certain documents which I
14 feel to be important in the defense of my own
15 client. It is also believed that because of the
16 very nature of the documents they were regarded to
17 be more appropriate to present as evidence during
18 the general phase of this case rather than in the
19 individual defense case -- phase of the case. If
20 these documents are tendered in evidence in the
21 individual phase without any reservations to that
22 effect, then there might be objections raised to
23 the effect that the document was being tendered
24 after the end of a phase -- or after a certain
25 phase had been completed, or that it was irrelevant;

1 and therefore I desire to have the permission of
2 this Tribunal to be permitted to tender such docu-
3 ments in evidence as soon as the processing of
4 such documents have been completed.

5 Although translation of some of them has
6 been completed and some of these documents have
7 already been stencilled and are ready for print-
8 ing, we have at this stage not been able to have
9 them completely printed for distribution. It is
10 doubtful at the present juncture whether our print-
11 ing facilities would be sufficient to have these
12 documents in which I am interested printed; and for
13 that reason I should like to request the Tribunal,
14 if I may, that these printing facilities be expanded
15 so that the processing of such documents could be
16 fully considered.

17 I should also like to add, if I may, that
18 there are other Japanese defense counsel who enter-
19 tain similar discontent and dissatisfaction as I do.

20 THE PRESIDENT: You will have no grievance
21 if while you are putting the case for KOISO you
22 are allowed to tender relevant and material documents.
23 That is as much as we can say. It does not follow
24 that because a document is not tendered during a
25 phase it cannot be used afterwards if it bears on

1 the phase. KOISO will be able to tender every
2 document that helps him; there will be nothing to
3 stop him at the proper time. But it must be obvious
4 to you that each individual counsel cannot get his
5 own way in putting the phases.

6 MR. MIMASHI: I understand your words,
7 your Honor, but I made this statement because it
8 may be felt that certain documents which would be
9 regarded as irrelevant in the general phase may also
10 be regarded in the same light in the individual
11 phase, because I have the feeling that -- because
12 it may be regarded that documents in the general
13 phase may not be regarded as having any direct connec-
14 tion in the individual phase, although I should add
15 that if the general phase progresses satisfactorily,
16 then it would redound satisfactorily to all accused
17 involved.

18 THE PRESIDENT: I cannot follow your reason-
19 ing. If a document is not admitted during the
20 general phase and you think it helps your client,
21 you will be able to tender it and it will be ad-
22 mitted if it is relevant and material to his case
23 and if it is not repetitive. That qualification is
24 always there.

25 As a matter of interest, who is KOISO's

1 American counsel? We don't prefer his word to
2 yours, but who is he?

3 MR. MIMASHI: Mr. Brooks, your Honor.

4 THE PRESIDENT: The division of opinion
5 does not help you, of course.

6 MR. BROOKS: Your Honor, I might state as
7 American counsel that a group of fifteen Japanese
8 attorneys and a relevant number of American attor-
9 neys on a committee screened these documents very
10 closely and we tried to rule out anything that was
11 cumulative. Certain books are being referred to,
12 I think, and newspaper articles which were ruled
13 out at the time as being cumulative and of very
14 little probative value.

15 THE PRESIDENT: Colonel Warren.

16 MR. WARREN: Your Honor, at least there
17 will be some misunderstanding on the part of the
18 accused as to what occurred. We had a committee
19 carefully selected to screen materials for this
20 division. The documents to which counsel refers
21 were not in the opinion of that committee relevant
22 to the issues now being presented. If counsel de-
23 sires to use these documents later in his own phase,
24 he is at liberty to do so, and I feel confident
25 the facilities for reproduction will be there.

1 We are proceeding in accordance with the plan adop-
2 ted by all the Japanese and American counsel, and
3 all counsel are well aware of that fact.

4 MR. MIMASHI: If these documents may be
5 tendered during the individual phase, I am satis-
6 fied. Thank you.

1 MR. T. KAMOTO: Mr. President, Mr. OHARA
2 will continue the presentation of documents.

3 THE PRESIDENT: Mr. OHARA.

4 MR. OHARA: We offer in evidence defense
5 document 486, which is a report of November 8, 1929,
6 from the Japanese Consul General at Kirin to the
7 Japanese Foreign Minister on the subject of the
8 Chinese regulations concerning the control of rice
9 field irrigation in Kirin Province.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Defense document 486
12 will receive exhibit No. 2390.

13 (Whereupon, the document above re-
14 ferred to was marked defense exhibit No. 2390
15 and received in evidence.)

16 THE MONITOR: Your Honor, we asked the
17 Japanese counsel where he started to read from. The
18 Language Section does not happen to have the English
19 text of the present document, that is, some pages
20 seem to be missing.

21 MR. OHARA: We shall read defense document
22 486, exhibit 2390.

23 "Official: No. 731 (Translation)

24 "November 8, the Fourth Year of Showa, at Kirin

25 "From: ISHII, Itaro, Consul-General at

1 Kirin

2 "TO: SHIDEHARA, Kijuro, Foreign Minister

3 "Subject: On the Provisional Regulation con-
4 cerning the Control of Rice-field Irrigation, enacted
5 by the Board of Construction, Provincial Government
6 of KIRIN

7 "(Middle part omitted)

8 "Provisional Regulation concerning the
9 Control of Rice-field Irrigation, enacted by the
10 Board of Construction, Provincial Government of KIRIN.

11 "Chapter One, General Rule

12 "Article 1 The present regulation is enacted
13 with the object of controlling rice-field irrigation
14 throughout the whole Province and the Board of
15 Construction is in charge of this matter."

16
17 Skipping to Chapter Three, Control:

18 "Article 8. Only Chinese nationals are allowed
19 to reclaim and cultivate rice-fields.

20 "In the case of large scale enterprises
21 foreigners are allowed to be employed only when technical
22 knowledge is needed. In such a case, one who employs
23 a foreigner shall report to that effect to the competent
24 Prefectural Government which is bound to transmit the
25 matter further to the Board of Construction for its
consideration."

1 Next, defense document 306 is offered in
2 evidence. It is a report of December 26, 1929 from
3 the Japanese Consul General at Tientsin to the
4 Foreign Minister concerning a plan for the estab-
5 lishment of a Manchou-Mongolian empire.

6 THE PRESIDENT: Mr. Comyns Carr.

7 MR. COMYNS CARR: May it please your Honor,
8 the prosecution objects to this document. It is of
9 the same type as defense document 254 already re-
10 jected, namely, as the last paragraph of it states --
11 the consul is reporting to the foreign minister --

12 ".....the foregoing stories, as I have
13 heard them, for your reference," quoting the words.

14 In my submission, there is no probative value
15 in that, and, in any case, it is immaterial to know
16 whether there were certain people in Manchuria or
17 Mongolia who desired to see the Emperor restored to
18 the throne.

19 MR. OHARA: May I call your attention, your
20 Honors of the Tribunal, to the fact that the Lytton
21 Report says that there was no independence movement
22 prior to September 18, 1931. According to this document,
23 your Honor, at least it is known that as early as 1929
24 there was a movement for the restoration -- for the
25 independence of Manchuria both in Manchuria and

1 Mongolia by a group close to the Emperor Hsuantung,
2 at least the fact that there were reports to that
3 effect; and I submit that this fact is highly impor-
4 tant to the present case. It is my submission that
5 this document will be of assistance to this Tribunal.

6 THE PRESIDENT: The objection is upheld
7 by a majority. The document is rejected.

8 MR. OHARA: Defense document 277 is offered
9 in evidence. It is a report of December 17, 1930 from
10 the Japanese Acting Consul General to the Foreign
11 Minister concerning the statement of Cheng Chui with
12 regard to movements in provinces other than Manchuria
13 for the restoration of Pu-Yi to the throne. The
14 Tribunal might recall that Pu-Yi testified to the
15 fact that Cheng Chui was one of his four advisers.

16 MR. COMYNS CARR: This document is of exactly
17 the same type as the last, a statement said to have
18 been made not even to the consul himself but to somebody
19 else by an individual Chinese. It is not even about
20 Manchuria at all, but about the desire of the Dalai
21 Lama of Tibet to see the monarchy restored in China
22 as a whole.

23 MR. OHARA: The prosecution just referred to
24 someone, but that someone is not an indefinite, unspec-
25 ified person but none other than Cheng Chui, one of the

1 four advisers of Pu-Yi, and the person who heard
2 these statements from Cheng Chui was a vice-consul
3 by the name of Goto. The fact that Mr. Goto was a
4 vice-consul is made clear in a document which has
5 been rejected by the Tribunal, document No. 306;
6 and if the Tribunal wishes to make clear the fact
7 that Mr. Goto was vice-consul, we can present this
8 document 306 again; and through this document we wish
9 to show that the independence movement in Inner
10 Mongolia -- as far as the independence movement of
11 Inner Mongolia -- in Manchuria and Mongolia, Japan
12 did not help that independence movement.

13 THE MONITOR: This is a point we wish to
14 clarify.

15 MR. OHARA (Continuing): In the Indictment
16 it says that the Japanese guided Manchurian inde-
17 pendence movement, so I wanted to make this point clear.

18 THE PRESIDENT: By a majority the Court upholds
19 the objection and rejects the document.
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1 MR. OHARA: Defense document 282 is offered
2 in evidence. It is an article of the Manchuria Nichi
3 Nichi, dated August 26, 1931, to the effect that a plot
4 for the restoration of the Ching Dynasty was discovered
5 as the result of the arrest of communists in Mukden.
6 This newspaper clipping is in the custody of the
7 Japanese Foreign Office.

8 MR. COMYNS (RR): We object to this document,
9 your Honor, on two grounds: In the first place, that
10 it is merely a newspaper story not purporting to be a
11 report of a speech by any person whose speech would
12 be material or any kind of official announcement; and
13 secondly on the ground that in any event the material
14 referred to in it is irrelevant. It related to some
15 alleged plot by somebody who was thought to be a
16 communist but, according to the newspaper, turned out
17 to be acting on behalf of somebody called the Great
18 Sword Association. And, your Honor, I should add that
19 the plot in question appears to be alleged to relate
20 to the whole of China, the restoration of the monarchy
21 in the whole of China, and not to any separatist move-
22 ment for Manchuria.

23 MR. OHARA: The prosecution just referred --
24 said newspaper articles. But the prosecution itself
25 has presented much evidence which consisted of newspaper

1 articles. It sounds as if newspaper articles are not
2 worth believing but in our everyday life the newspaper
3 is an organ through which we learn various facts
4 quickly and in that respect it is a very important
5 organ. In this newspaper article there are no opinions
6 in this newspaper article but it reports the fact that
7 a plot had been discovered. It says in here that the
8 movement was for the restoration of the Ching Dynasty
9 but at least it shows that such a movement was centered
10 in Manchuria around the Emperor Hsientung.

11 THE PRESIDENT: By a majority the objection
12 is upheld and the document rejected.

13 MR. OHARA: Defense document 557 is offered
14 in evidence. It is a report of June 9, 1931, from
15 the Japanese Director of the Department of Korean Af-
16 fairs in the Ministry of Oversea Affairs to the Director
17 of Asiatic Affairs Bureau of the Foreign Office, con-
18 cerning the enforcement of the Chinese disciplinary
19 law against lease or sale of land to foreigners.

20 CLERK OF THE COURT: Defense document No. 557
21 will receive exhibit No. 2391.

22 (Whereupon, the document above
23 referred to was marked defense exhibit No.
24 2391 and received in evidence.)

25 MR. OHARA: (Reading) "Korea, I No. 1837.

"9 June 1931.

1 THE PRESIDENT: Don't read until the judges
2 have copies. You may read.

3 MR. OHARA: (Reading) "Korea, I No. 1837.

4 "9 June 1931.

5 "From: The Director of the Department of Korea Affairs,
6 Ministry of Oversea Affairs.

7 "To: The Director of Asiatic Affairs Bureau, Foreign
8 Office.

9 "Subject: Enforcement of the Disciplinary Law against
10 the Unlawful Sale of Land.

11 "A dispatch from the Chief Civil Administrator
12 of the Government-General in Korea, reveals that accord-
13 ing to recent information, the Governor of the Liaonin
14 Province, upon the advice of Executive Committee, the
15 Negotiations Committee, and the Board of Civil Admin-
16 istration, has formulated a Liaonin Province Special
17 Law entitled 'the Disciplinary Law against the Unlawful
18 Sale of land' a copy of which is herein inclosed, and
19 has decided that the same shall be enforced on and
20 after 1 May of this year. I have the honour of sub-
21 mitting this information for your reference.

22 "The Disciplinary Law against the Unlawful
23 Sale of Land.

24 "Article 1. Whoever leases Chinese land to a
25

1 foreigner shall be, if the lot is more than one mu
2 (TN: One mu or mou equals 6,144 are or 0.15 acre) and
3 less than five, sentenced to a penal servitude for a
4 term of five years and land shall be confiscated. Who-
5 ever sells Chinese land to a foreigner shall be if the
6 lot is more than one mu and less than five be sentenced
7 to a penal servitude for a term of ten years and his
8 property shall be confiscated for the purpose of raising
9 money sufficient to redeem the land.

10 "Article 2. Whoever leases Chinese land to
11 a foreigner shall be, if the lot is more than five mu
12 and less than ten, sentenced to a penal servitude for
13 a term of ten years, and the land shall be confiscated.
14 Whoever sells Chinese land to a foreigner shall be, if
15 the lot is more than five mu and less than ten sentenced
16 to a penal servitude for a term of twenty years, and
17 his property shall be confiscated to raise money
18 sufficient to redeem the land.

19 "Article 3. Whoever leases Chinese land to a
20 foreigner shall be, if the lot is more than ten mu and
21 less than twenty, sentenced to a penal servitude for
22 a term of twenty years, and the land shall be confis-
23 cated. Whoever sells Chinese land to a foreigner
24 shall be, if the lot is more than ten mu and less than
25 twenty, sentenced to a penal servitude for a term of

1 forty years, and his property shall be confiscated to
2 raise money sufficient to redeem the land.

3 "Article 4. One who leases or sells Chinese
4 land to a foreigner shall be, if the lot is more than
5 twenty and less than fifty, be sentenced to a penal
6 servitude for life and the land shall be confiscated.
7 His property, however, shall be exempted.

8 "Article 5. Whoever leases or sells Chinese
9 land to a foreigner shall be, if the lot is more than
10 fifty mu and less than one hundred, sentenced to death
11 and the land shall be confiscated. His property,
12 however, shall be exempted.

13 "Article 6. Whoever leases or sells Chinese
14 land to a foreigner shall be, if the lot is more than
15 one hundred mu and less than two hundred, sentenced
16 to death, and the middle-man to a penal servitude for
17 a term of five years.

18 "Article 7. Whoever leases or sells Chinese
19 land to a foreigner shall be, if the lot is more than
20 two hundred mu and less than five hundred, sentenced
21 to death and the middle-man to a penal servitude for
22 a term of more than ten years and less than thirty.

23 "Article 8. Whoever leases or sells Chinese
24 land to a foreigner shall be, if the lot is more than
25 five hundred mu and less than one thousand, sentenced

1 to death and the middle-man to a penal servitude for
2 life.

3 "Article 9. The foregoing eight items shall
4 be transmitted to 58 hsien of the whole province and
5 shall be enforced on and after the First day of May in
6 the 20th Year of the Republic of China.

7 "(The rest omitted)"

8 Counsel OKAMOTO will handle the presentation
9 of the following evidence -- evidence to follow.
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1 THE PRESIDENT: Counsel OKAMOTO.

2 MR. T. OKAMOTO: We now offer in evidence a
3 series of articles of the Japan Chronicle, covering
4 the period of July, August and September, 1931, in
5 order to show the conditions of Manchuria at that
6 time, just prior to the Mukden Incident. We have
7 chosen this paper because it is generally known to the
8 public that this paper was at one time the most
9 influential journal in the English language, issued
10 in Japan, and was edited by Mr. Young, an Englishman
11 who was rather inclined to be anti-Japanese. Hence,
12 it may be said that the reports appearing in this
13 paper were in no way propaganda of the Japanese
14 Government. We are prepared to produce witnesses,
15 should the character of the journal be at issue.

16 The first of the series to be offered in
17 evidence is defense document No. 167. It is an article
18 in the issue of July 3, 1931, entitled "Chinese
19 Attack Koreans - Band of 400 Destroy Dam Built Under
20 Guard."

21 THE PRESIDENT: Mr. Comyns Carr.

22 MR. COMYNS CARR: Your Honor, in our sub-
23 mission this document is objectionable for several
24 reasons which will apply to most of the others which
25 will follow.

1 With regard to newspaper articles generally,
2 our submission is this: We have used them where they
3 contain reports of official announcements; also
4 where they contain reports of speeches by any of the
5 accused; also where they are official publications
6 like the Tokyo Gazette. In other cases we have called
7 in evidence the journalists themselves such as Mr.
8 Powell and Mr. Goette to confirm the statements
9 in their articles. In our submission those are the
10 limits to which newspaper articles can have probative
11 value.

12 The particular document now offered, and many
13 of the others about to be offered, consists of articles
14 from the Japan Chronicle quoting other newspapers.
15 This one quotes a story from the Asahi.

16 The other ground of objection is that the
17 subject matter of this, and many others of the documents
18 about to be tendered, namely, disputes between Chinese
19 and Korean farmers is adequately covered in the
20 Lytton Report and these newspaper articles are merely
21 repetitious.

22 THE PRESIDENT: Isn't the Lytton Report
23 sufficient evidence of any anti-Japanese feeling?

24 MR. T. OKAMOTO: I am afraid that it is not;
25 and may I say a few words in reply to the prosecution.

1 According to the Charter of the Tribunal ordinary
2 rules of evidence will not apply in this case and
3 even newspapers and other secondary evidence will be
4 admitted as evidence in case the originals are not
5 found.

6 In particular, our intention in offering
7 this kind of evidence is not only for the purpose
8 of proving that such and such facts occurred at a
9 certain time, but for the purpose of showing how an
10 event was reported in newspapers at that time, there-
11 by influencing the public opinion both at home and
12 abroad.

13 THE PRESIDENT: We will assume, I think,
14 that the accused were aware of everything in the
15 Lytton Report in their favor.

16 MR. T. OKAMOTO: The Lytton Report gives
17 a summary of the Wanpaoshah Incident, but it does
18 not sufficiently express the critical atmosphere
19 prevailing in these days between China and Japan.
20 That is my submission.

21 THE PRESIDENT: By a majority the objection
22 is upheld and the document rejected.

23 MR. T. OKAMOTO: There are a series of
24 newspaper articles but I hope the Tribunal will take
25 them on their merits respectively.

1 Next we offer in evidence defense document
2 279, which is an article in the same journal of
3 July 19, 1931, entitled "The Korean Affair - Endeavor
4 to settle it at Mukden."

5 THE PRESIDENT: Mr. Comyns Carr.

6 MR. COMYNS CARR: Your Honor, this document
7 is open to all the same objections as the last.

8 THE PRESIDENT: I cannot hear you. There
9 are too many people standing there.

10 MR. COMYNS CARR: This document is open to
11 all the same objections as the last, including the
12 fact that it is only a quotation from one newspaper
13 in another newspaper; and also to two further ob-
14 jections.

15 As to the first part of it, it purports
16 to be an account of the doings of Mr. HAYASHI, the
17 Japanese Consul-General at Mukden. Mr. HAYASHI's
18 reports are available in the Japanese Foreign Office
19 and have been used by both sides, and, presumably,
20 if this newspaper article is correct, it could be --
21 the contents could be proved in that much better way.

22 THE PRESIDENT: For the time being I can
23 not see why the decision on the last newspaper article
24 should not cover the decision on the remaining articles.
25

 Is there any exception in the remaining

1 articles?

2 MR. T. OKAMOTO: Yes, sir, but I would like
3 to just take these documents one by one in order
4 not to upset the order of proof which I have given
5 to the Language Section.

6 THE PRESIDENT: Why waste time on a number
7 of documents which we know must be rejected?

8 MR. T. OKAMOTO: I will just skip over these
9 titles and present the relevant articles if I find any.
10 May I, sir?

11 THE PRESIDENT: Well, I have already said
12 we would like to know whether in any of the remaining
13 articles there is something special which the decision
14 already given does not cover.

15 MR. T. OKAMOTO: My colleagues suggest that
16 the journal just offered, defense document No. 279,
17 will show the circumstances under which China and Japan
18 tried to arrive at a settlement with regard to the
19 aforesaid incident, that is, the Wanpaoshan Incident,
20 which are not written in the Lytton Report. However,
21 I shall withdraw that article, defense document No.
22 279 and next offer --

23 THE PRESIDENT: We will adjourn until
24 half-past one.
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(Whereupon, at 1200 a recess was taken.)

AFTERNOON SESSION

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2 MARSHAL OF THE COURT: The International
3 Military Tribunal for the Far East is now resumed.

4 THE PRESIDENT: Mr. OKAMOTO.

5 MR. T. OKAMOTO: May I call the attention
6 of the Tribunal to the passage on page 7341 of the
7 transcript where Mr. President remarked as follows:

8 "No need to say more, Mr. Golunsky.

9 There is no requirement that the only documents
10 admitted shall be official documents."

11 And I think these newspaper reports which
12 I have submitted this morning are all relevant and
13 material, and we expect to connect them up later
14 on with more material facts, and we should like to
15 offer it for whatever probative value they have.

16 THE PRESIDENT: Well, they appear to be
17 all alike, so the only thing to do is to apply the
18 first decision to the lot, that is, to reject them
19 all.
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21 MR. T. OKAMOTO: May I take it as the rul-
22 ing of the Tribunal?

23 THE PRESIDENT: Unless the other Judges
24 desire each document to be submitted separately, and
25 I have no intimation that they so desire, so that

1 is a ruling.

2 MR. T. OKAMOTO: May I point out that the
3 prosecution has submitted newspaper article, that
4 is to say, a part of the article of the Japan
5 Times, as evidence in respect of defendant NINAMI's
6 speech, and I should like to tender an article from
7 the Japan Chronicle as supplement to what he said
8 at that time, which are not covered by the article
9 of Japan Times.

10 Does that article fall into the category
11 which the President has just now ruled?

12 THE PRESIDENT: You have not tendered that
13 document yet. This is not in that category that
14 you specified some time ago. It may prove to be
15 of the same quality and then will be rejected.

16 MR. T. OKAMOTO: I understand that the
17 President means that the Premier of Japan at that
18 time, that is to say, 1931, made a speech, and that
19 speech was reported in the Japan Chronicle.

20 THE PRESIDENT: Who was the Premier?

21 MR. T. OKAMOTO: Baron WAKATSUKI, your
22 Honor.

23 THE PRESIDENT: If that is relevant I do
24 not think it will be rejected if tendered, unless
25 it is objected to and the objection sustained.

1 MR. T. OKAMOTO: Then -- Language Section,
2 I start from number 23 of my running commentary,
3 page 7 of the English, and page 6 of Japanese text,
4 number 23.

5 "We offer in evidence defense document 326,
6 which is an article of July 22, 1931, entitled
7 "Japan's Continental Rights." This is a speech of
8 Premier WAKATSUKI upon the Manchurian question.

9 THE PRESIDENT: If there is no objection
10 is admitted on the usual terms.

11 Mr. Comyns Carr.

12 MR. COMYNS CARR: Your Honor, we certainly
13 don't object on the ground that it is a newspaper
14 report of a speech. We wouldn't object on that
15 ground. The only objection I have is that it doesn't
16 appear to be of any assistance one way or the other
17 whatever. Mr. WAKATSUKI gave evidence -- he wasn't
18 cross-examined about this speech, and it merely
19 reflects the attitude he took in the witness' box,
20 which we have never attacked.

21 MR. T. OKAMOTO: Witness WAKATSUKI testified
22 in this Tribunal --

23 THE PRESIDENT: The decision to receive it
24 stands.

25 CLERK OF THE COURT: Defense document 326

1 will receive exhibit No. 2392.

2 (Whereupon, the document above
3 referred to was marked defense exhibit
4 No. 2392 and received in evidence.)

5 MR. T. OKAMOTO: (Reading)

6 "Article Extracted from 'The Japan
7 Chronicle' July 22, 1931 (page 4)

8 "Japan's Continental Rights

9 "Making a full-dress speech at Akita on
10 Sunday, Baron WAKATSUKI, the Premier, said that
11 there had lately been some talk of the need for
12 establishing a 'fundamental' China policy so that
13 the problems of Manchuria and Mongolia might be
14 definitely settled. The Premier, however, said
15 that his Government and the party on which it is
16 based have always had a fundamental policy, and that
17 there is therefore no need to enunciate a new one.

18 "He was very plain on the subject that Japan
19 has certain rights and interests in Manchuria and
20 Mongolia which are essential to her existence, and
21 that these can in no circumstances be abandoned, no
22 matter who demands their abandonment. This pro-
23 nouncement, made at the present time, is a revival
24 of a contention that has long existed and which makes
25 a clear distinction between these northern regions

1 and the rest of China. Japan has already, by treaty
2 right, the privilege of residence and landholding.
3 It has constantly been complained that she is un-
4 able to exercise it because the Chinese are
5 determined to keep Japanese off the land. It is
6 obvious, however, that there are some notable ex-
7 ceptions. The 'Japanese farm' at Mukden and the
8 Wanpaoshan estate are notable instances in which
9 land in large tracts has become available, and the
10 late Baron OKURA's Mongolian holdings (still in the
11 firm or the family) are supposed to be very ex-
12 tensive indeed. In fact, the Wanpaoshan estate,
13 the cause of all the recent trouble, is an instance
14 of where the Japanese acquirement of land has been
15 successfully accomplished but without successfully
16 overcoming the local opposition. It will be
17 remembered that, when the China Consortium was
18 formed (or revived) with Messrs. J.P. Morgan & Co.
19 in a leading position, there was a long tussle over
20 the exclusion of Manchuria and Mongolia, which ended
21 in the Consortium agreement including these regions
22 but, though they offered the most promising outlet
23 for capital, never even considering a loan for their
24 development. The nearest that Morgan & Co. got to
25 developing Manchuria was some eight years afterwards,

1 when the firm (not the Consortium) was to make a loan
2 to the South Manchuria Railway, but was deterred
3 by the noise that the Chinese made about the alliance
4 of American capitalism and Japanese imperialism.

5 "Baron WAKATSUKI expressly repudiated any
6 imperialistic schemes and all desire for territorial
7 aggrandisement; but he affirmed Japan's rights and
8 the resolve never to abandon them. The chief of
9 these rights are, of course, the control of the
10 leased territory of Liaotung and of the Manchurian
11 railway zone. Very important also are the right to
12 protest against the construction of any line of
13 railway deliberately designed to parallel the
14 South Manchuria Railway and the right to be in-
15 vited to furnish any development loans. As Baron
16 WAKATSUKI said, neighbours are apt to have their
17 little tiffs in all parts of the world, and there
18 have been some over this question.

19 "The Premier was very discreet concerning
20 the most serious trouble that has arisen lately
21 between neighbours whose very closeness sometimes
22 leads to friction. He said that the Japanese au-
23 thorities must take steps to protect Korean interests,
24 but he avoided any comment on the degree to which
25 such protection has led to the ill-feeling that has

1 been manifested at "anpaoshan and other places.

2 "The chief importance of the Premier's
3 statement lies in the broad hint that it gives that,
4 in dealings between the Powers and China, with
5 regard to abolition of extraterritoriality or the
6 abrogation of 'unilateral' treaties, Manchuria and
7 Mongolia stand outside the scope of common action
8 and, whatever Japan may consent in common with the
9 Powers, to abandon south of the Great Wall, she has
10 no intention of abandoning anything to the north.
11 For the rest, her prospects in Manchuria are full
12 of promise. She has missed, it is true, the oppor-
13 tunity which once seemed to exist of settling her
14 surplus population on the land there; but the hard-
15 working and frugal Chinese who have entered the
16 country during the past decade are both providing a
17 market for Japanese goods and pouring wealth into
18 the Japanese enterprises in South Manchuria. The
19 Premier said that the first and abiding consideration
20 in Manchuria was that Japanese and Chinese, in spite
21 of occasional friction, must get along together in a
22 friendly and neighbourly manner."
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1 Language section, I now come to No. 33 on
2 page 9 of the English version.

3 Next we offer in evidence defense document
4 392 which is an article of August 5, 1931 entitled
5 "Army Commanders' Conference; Minister of War's
6 Appeal to the Public; Essential Improvements."

7 THE PRESIDENT: Mr. Comyns Carr.

8 MR. COMYNS CARR: Your Honor, this is the
9 same speech as prosecution exhibit 186. It is a
10 report from a different newspaper, but I have not
11 been able to detect any difference in substance be-
12 tween them, and in my submission it is repetitious.

13 MR. T. OKAMOTO: The prosecution introduced
14 only a part of the article in Japan Times as regards
15 to defendant MINAMI's speech. As the original of the
16 speech is not available at present, we think it is
17 beneficial to this trial if we offer another version
18 by another paper to make up a whole picture of MINAMI's
19 speech.

20 THE PRESIDENT: Mr. Comyns Carr says there is
21 no difference between this speech and exhibit 186.
22 What do you say?

23 MR. T. OKAMOTO: I find a number of omissions
24 in the article of Japan Times which are covered by the
25 article of Japan Chronicle now I am offering.

1 THE PRESIDENT: On your assurance that there
2 are differences, we admit it on the usual terms.

3 MR. T. OKAMOTO: I tender this defense
4 document No. 392 in evidence.

5 CLERK OF THE COURT: Defense document No.
6 392 will receive exhibit No. 2393.

7 (Whereupon, the document above re-
8 ferred to was marked defense exhibit No.
9 2393 and received in evidence.)

10 MR. T. OKAMOTO: (Reading)

11 "Addressing the conference of the Commanders
12 of the Army Divisions yesterday (4th instant), General
13 MINAMI, Minister of War, said that the Imperial Army
14 calls for improvement in point of organization and
15 equipment. Reform is also required in many direct-
16 ions. Owing, however, to the strained financial cir-
17 cumstances of the State, it is impossible for the army
18 to ask the national treasury for the money. The
19 military authorities are, therefore, obliged to defer
20 complete improvement to the time when business pros-
21 perity returns to the country, in the meantime content-
22 ing themselves with such measures as are more urgently
23 needed. For financing such measures, they have con-
24 trived to find the money by retrenching war expendi-
25 ture in other directions.

1 "In such circumstances, the abolition or re-
2 duction of some institutions and bodies is inevitable.
3 It is a matter of deep regret that under this reform
4 plan, some talented and able officers will have to
5 retire, but in existing circumstances such a sacri-
6 fice must be made for the sake of the general effici-
7 ency of the army.

8 "Notwithstanding the fact that the army re-
9 form plan, drawn up by the military authorities, pro-
10 vides for minimum needs, and that the army is going
11 to make heavy sacrifice in its execution, irresponsible
12 outsiders criticize the army as though it were bent
13 upon exorbitant demands. The Minister exhorted his
14 hearers to cooperate with the military authorities in
15 correcting this erroneous impression. They must make
16 positive endeavours to convince the troops under
17 their respective orders of the imperative need of the
18 contemplated reform and of its propriety. They must
19 further endeavour to promote understanding and harmony
20 between the troops and the public.

21 "MANCHURIAN SITUATION

22 "Referring to the Manchurian and Mongolian
23 problem, the Minister said that the situation in
24 Manchuria and Mongolia has lately been developing a
25 more serious phase. The development of unfavourable

1 phenomena is evidently not ephemeral, as it is pre-
2 sumably based partly on the decline of Japan's pres-
3 tige due to changes in international politics, and
4 to the emasculation of the national spirit and partly
5 to the growth of the anti-foreign sentiment and the
6 rights-recovery ideas among the Chinese and also of
7 the new economic influences in these regions. All
8 in the military service must have a stronger sense of
9 loyalty and public service.

10 "Turning to the Geneva Disarmament Conference,
11 the speaker said that to make preparations for the
12 forthcoming assembly, the army appointed a prepara-
13 tory committee in April. This committee has since
14 been earnestly studying the just and proper claims
15 to be put forward by the Japanese delegates. When
16 they are definitely decided after consultation with
17 all quarters concerned, they will be made public at
18 the right moment so as to enlist the public support.

19 "In connection with the Disarmament Confer-
20 ence, the Minister proceeded many people are urging
21 the need of the reduction of armaments but a survey
22 of the attitude of the Powers shows that no country
23 is willing to take the initiative. It is regrettable
24 that these people fail to face facts or deliberately
25 misconstrue them, and proceed to stir up at home a

1 general desire for disarmament by exploiting the
2 widespread sense of political and economic instabil-
3 ity. The speaker asked his hearers to see that the
4 public generally understand the nature of the Con-
5 ference as well as the attitude of the Powers towards
6 it correctly, so that public opinion at home may be
7 formed justly and judiciously.

8 "FIFTIETH ANNIVERSARY

9 "The Minister reminded his hearers that this
10 is the fiftieth anniversary of the grant of the
11 celebrated Imperial Edict to the army, and urged on
12 them the necessity of the injunctions set forth in
13 this Edict should be more scrupulously observed by
14 the troops so that the Imperial prestige may be en-
15 hanced and the foundations of the State be established
16 more firmly."

17 May I point out one thing: that the Japan
18 Chronicle is rather inclined to be anti-Japanese.

19 Next we offer in evidence defense document
20 443 which is an article of August 16, 1931 entitled,

21 "THE MANCHURIAN SITUATION

22 "KWANTUNG GOVERNOR AND KOREAN

23 "NATIONALITY QUESTION

24 "CALLS FOR SOLUTION"

25 showing the attitude of the Japanese Governor of the

Kwantung Leased Territory towards the Manchurian
1 question.

2 THE PRESIDENT: Mr. Comyns Carr.

3 MR. COMYNS CARR: In our submission, this
4 document is within the ruling already given by the
5 Tribunal. It is merely a newspaper article of a
6 press interview given by a Mr. TSUKAMOTO who was
7 governor of Kwantung Province. It is, from our
8 point of view, quite harmless; but, as the same time,
9 we submit it is a waste of the time of the Tribunal
10 to listen to it.

11 THE PRESIDENT: Yes. Have you anything to
12 say, Mr. OKAMOTO?

13 MR. T. OKAMOTO: This governor of Kwantung
14 Province, Mr. TSUKAMOTO, is representing Japanese
15 Government at this time in Manchuria or on the part
16 of Manchuria, and his views on the Manchurian ques-
17 tion, which is getting quite tense between Japan and
18 China, will be very beneficial for the trial of this
19 case.
20

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Defense document No.
23 443 will receive exhibit No. 2394.

24 (Whereupon, the document above re-
25 ferred to was marked defense exhibit No.
2394 and received in evidence.)

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MT. T. OKAMOTO: (Reading).

"Article from 'The Japan Chronicle', August 16, 1931.

"The Manchurian Situation. Kwantung Governor and Korean nationality question 'calls for solution'.

"Mr. TSUKAMOTO, Governor of Kwantung Province (leased territory), arrived in Kobe yesterday from Dairen, by the O.S.K. steamer Harbin-maru. His present visit to Tokyo is to report to the Government on the anti-Japanese situation in Manchuria and Mongolia, with special reference to the persecution of Korean residents.

"In a Press interview at Moji, Mr. TSUKAMOTO said that despite the prevalence of anti-Japanism, he was accorded a warm reception by Chinese officials during his recent inspection tour in Manchuria and Mongolia. It is like the Chinese not to allow official etiquette to be marred by anti-Japanism. He observed that the leaders of the Mukden Government are persuaded that the anti-Japanese movement does not redound to Chinese interests and that consequently they are doing their best to control it. Unfortunately, however, their orders are not always obeyed by the local authorities who, for the preservation of their own position, are lending support to the agitation. Mr. TSUKAMOTO

1 particularly regrets the systematic method widely
2 used of stamping anti-Japanese ideas on the plastic
3 minds of school children.

4 "Whereas, the Chinese population in Man-
5 churia and Mongolia totals 30,000,000, the Koreans
6 who have settled there do not exceed a million, Mr.
7 TSUKAMOTO said. There should be no conflict of in-
8 terests between them, especially when it is remem-
9 bered that the cultivation of paddy fields is a spe-
10 ciality of Korean peasants, of which the Chinese farmer
11 is incapable. The present persecution of Koreans is
12 unaccountable.

13 "At any rate, he thinks that the question of
14 nationality calls for a speedy solution.

15 "Referring to the criticism in some Japanese
16 quarters that Japan's attitude towards Manchuria and
17 Mongolia is too weak and negative, the Governor of
18 Kwantung province declared that these critics are apt
19 to denounce any policy which is not pugnacious, as a
20 weak policy. If Japan grew excited and petulant when-
21 ever anti-Japanism arose, and persecution of Koreans
22 took place, it could but lead to a collision. It is
23 due to the well-considered attitude of the Japanese
24 Government in the face of provocation that relations
25 between Japan and China are not hopelessly estranged.

1 "He expressed himself strongly opposed to
2 China's attempts to levy taxes in the South Manchurian
3 Railway zone."

4 We next offer in evidence defense document
5 No.796, which is an article of September 6, 1931,
6 entitled "Baron WAKATSUKI Replies - No Reason for
7 Stronger China Policy - The Hot Heads Rebuked."

8 CLERK OF THE COURT: Defense document No. 796
9 will receive exhibit No. 2395.

10 (Whereupon, the document above
11 referred to was marked defense exhibit
12 No. 2395 and received in evidence.)

13 MR. COMYNS CARR: Your Honor, we have not
14 taken objection to this document as a whole, having
15 regard to the previous ruling of the Tribunal, but
16 the first part of it really is in the nature of a re-
17 port of a speech by Baron WAKATSUKI, but the second
18 part of it is nothing of the kind. I am referring
19 to the part headed "The Kokumin's Lament" I suppose
20 the Kokumin is another newspaper, or some other pub-
21 lication.

22 MR. OKAMOTO: I do not propose to read that
23 part, your Honor.

24 (Reading): "Excerpt from 'The Japan Chronicle',
25 September 6, 1931.

"No Reason for Stronger China Policy.

"The Hot Heads Rebuked.

"A general meeting of Minseito members in the Kokuriku district was held at Toyama yesterday (5th instant), there being present over 4,000 members. The speech of Baron WAKATSUKI, the President, was the feature of the meeting.

"Baron WAKATSUKI and that present-day diplomacy must be based on international justice and must aim at the promotion of the common prosperity of all nations. The foreign policy of the present Cabinet and the Minseito is shaped on this guiding principle. While safeguarding the existence of the State, it seeks to promote the happiness of mankind. The speaker has lately heard many adverse criticisms of the China policy of the present Cabinet, but it would be wrong to depart from the above mentioned guiding spirit in shaping the country's policy towards China. This guiding spirit does not run counter to the firm determination to uphold the country's vested rights and interests in Manchuria and Mongolia. In the light of international justice, there is no reason whatever why Japan should abandon these rights. If anybody attempts to ignore them, such attempts must be resisted resolutely. It must, however, always be kept in mind

1 that the only strong foreign policy which can be
2 pursued fearlessly is one based on international
3 justice and on the principles of the common pros-
4 perity of all nations. In order to reap the full
5 fruit of such a strong policy the nation must not
6 show impatience. It must not allow its judgement to
7 be misled by over-nervousness, but pursue a settled
8 course steadily and calmly. The speaker had no doubt
9 that a China policy framed and pursued in this way
10 will prove effectual."

11 The defense offers next in evidence defense
12 document No. 795, which is an article of September
13 9, 1931, entitled "Chiang's Fiery Attack - Japan
14 Behind the Scenes in the Canton Revolt - The NAKAMURA
15 murder".

16 MR. COMYNS CARR: Has your Honor got the
17 document? In my submission this document is covered
18 by the Court's previous ruling. It consists of two
19 parts, one which purports to be a speech by General
20 Chang Kai-shek, and the other purports to be an ac-
21 count of what happened in a cabinet discussion.

22 In my submission, the first part is irrele-
23 vant and the second part does not purport to be official.

24 MR. T. OKAMOTO: In reply to the prosecutor
25 my submission is that the first part is most relevant

1 and material to this trial because in comparison with
2 speeches which have been introduced up to now, Baron
3 WAKATSUKI and MINAMI and others, General Chiang Kai-
4 shek made an extremely inflammatory speech about a
5 week or ten days before the Mukden Incident. I do
6 not propose to read the second part.

7 THE PRESIDENT: What part do you propose to
8 omit?

9 MR. T. OKAMOTO: About the cabinet discussion.

10 THE PRESIDENT: This is offered as proof of
11 Chinese hostility just before the Mukden Incident?

12 MR. T. OKAMOTO: That is right, your Honor.

13 THE PRESIDENT: Admitted on the usual terms.

14 CLERK OF THE COURT: Defense document No. 795
15 will receive exhibit No. 2396.

16 (Whereupon, the document above
17 referred to was marked defense exhibit
18 No. 2396 and received in evidence.)

19 MR. T. OKAMOTO: (Reading):

20 "Excerpt from 'The Japan Chronical', Sep-
21 tember 9, 1931. Chiang's Fiery Attack. Japan
22 Behind the Scenes in the Canton Revolt. The NAKAMURA
23 murder. Nanking, September 7.

24 "General Chiang Kai-shek, President of the
25 Nanking Government, made an extremely inflammatory speech

1 against Japan at to-day's weekly memorial services.
2 He denounced Japan for her alleged activities behind
3 the scenes in connection with the Canton revolt. He
4 continued:-- "when Mr. Eugen Chen, Foreign Minister
5 of the Canton Government, visited Tokyo some time ago,
6 the Japanese Government placed facilities at his dis-
7 posal, including a big supply of arms and munitions.
8 The result is the recent advance, of the Cantonese in
9 Hunan province. In consequence, the National Govern-
10 ment is constrained to resort to force in settling
11 the Canton problem.

12 "Turning to the disturbance in Korea the
13 General declared that Japan had butchered more than
14 a hundred Chinese in Korea, and had occupied Wanpaoson
15 in Manchuria.

16 "He emphasized that Japan had forfeited her
17 claim to the comity of nations, through aiding and
18 abetting civil war in neighboring countries.

19 "It is feared that the General's inflammatory
20 address will add fuel to the anti-Japanese agitation
21 now going on in various parts of China."
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1 We next offer in evidence defense document
2 794, which is an article of September 16, 1931, en-
3 titled "Chiang Repeats his Charges - Did Japan Supply
4 Canton with 100,000 Rifles? Grave Accusations."

5 THE PRESIDENT: This is pressed on the same
6 ground as the last document?

7 MR. T. OKAMOTO: Yes, your Honor.

8 THE PRESIDENT: Admitted on the usual terms.

9 CLERK OF THE COURT: Defense document No.
10 794 will receive exhibit No. 2397.

11 (Whereupon, the document above re-
12 ferred to was marked defense exhibit No. 2397,
13 and was received in evidence.)

14 MR. T. OKAMOTO: (Reading) "Excerpt from
15 'The Japan Chronicle' September 16, 1931 (Page 4)
16 "Chiang Repeats His Charges
17 "Did Japan Supply Canton with 100,000 Rifles?
18 "Grave Accusations.

19 "As already reported, the Foreign Office in-
20 structed Mr. SHIGEMITSU, the Minister to China, to
21 make inquiries into the truth of the report that in
22 the course of his speech at the weekly memorial ser-
23 vice on the 7th instant General Chiang Kai-shek, head
24 of the Nationalist Government, openly charged Japan
25 with instigating civil disturbances in China, alleging

1 that the Japanese Government supplied arms and ammuni-
2 tion to the Canton Government, had instigated the
3 massacre of over 100 Chinese merchants in Korea and
4 occupied Wanpaoshan.

5 "A report just received from Mr. SHIGEMITSU
6 having made it clear that General Chiang actually
7 spoke to that effect, the Foreign Office has decided
8 to demand an explanation from the head of the National-
9 ist Government of his conduct. The Japanese Minister
10 will be ordered to ask General Chiang to substantiate
11 his accusations, especially in regard to the allega-
12 tion that Japan has supplied arms to the Canton Govern-
13 ment.

14 "A Nanking telegram to the Asahi says that
15 in another speech at the weekly memorial service on
16 the 14th instant, General Chiang repeated his charges
17 against Japan.

18 "Referring to the invasion of Hunan, he said
19 that on their own showing the rebels have Japan's help,
20 and that they purchased 100,000 rifles from Japan.

21 "He was now sure that Mr. Eugen Chen's recent
22 visit to Japan was for the purpose of buying arms from
23 Japan, and conferring with Russian friends at Hong
24 Kong. In Tokyo, he may have arranged for cooperation
25 with Russian Communists through the Soviet Embassy

there."

1 Next we offer in evidence defense document
2 352, which is an excerpt from the Manchuria Year Book,
3 1931, showing the condition of Japanese investments in
4 Manchuria by various statistics.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Defense document No. 352
7 will receive exhibit No. 2398.
8

9 (Whereupon, the document above re-
10 ferred to was marked defense exhibit No. 2398,
11 and was received in evidence.)

12 MR. T. OKAMOTO: (Reading) "Excerpt from the
13 Manchuria Year Book 1931. Japanese Investments.

14 "Outline.-- Japanese investments in Manchuria
15 as mentioned above totalled more than ¥1,510,000,000
16 at the end of 1928 and they may be classified as fol-
17 lows according to the enterprises:"

18 I will omit reading the rest of it.

19 On page 2: "The South Manchuria Railway
20 Company which represents more than 50% of the total
21 Japanese investment in Manchuria (54% at the end of
22 1926) has distributed its investments in the following
23 fields of enterprise."
24

25 I will omit the rest of that page.

 On page 5, second paragraph: "Direct

1 Investments.-- The amount of Japanese direct invest-
2 ment in enterprises in Manchuria reached ¥1,340,000,000
3 in 1928,---"

4 That will finish the reading of this document.

5 Next we offer in evidence defense document
6 260, which is a map of distributions of Japanese resi-
7 dents (including Korean) in Manchuria and Mongolia
8 in December, 1928."

9 MR. COMYNS CARR: Your Honor, this document
10 purports to prove by writing down on a map a quantity
11 of facts of which there is no other evidence. The only
12 certificate attached to it is one by Mr. BANNO who says
13 that he obtained it in Hsinking in 1936 and has owned
14 it ever since. And even that certificate does not
15 apply in terms to this map, but to a book which we
16 haven't seen. The book is said to have been compiled
17 by the headquarters of the Kwantung Army. That is the
18 only information available to us as to where these
19 figures and marks on the map have been obtained.

20 MR. T. OKAMOTO: As Counsel BANNO is here
21 in the court room, may he be heard to explain the situa-
22 tion?

23 THE PRESIDENT: Where is the book? It is
24 usual to tender the book for identification and the
25 excerpt as an exhibit.

1 MR. T. OKAMOTO: Mr. BANNO will explain the
2 situation.

3 THE PRESIDENT: Mr. BANNO.

4 MR. BANNO: This map is from a book compiled
5 by the Kwantung Army Bureau entitled: "Manchurian-
6 Mongolian -- Reference for Manchuria and Mongolia."
7 This was received in 1936 while I was at the head-
8 quarters of the Kwantung Army in Manchuria.

9 THE MONITOR: This book came into my possession
10 in 1936 while I was in Manchuria from the Kwantung Army
11 headquarters.

12 MR. BANNO: This book did not contain any
13 special secrets, and I held it merely for reference
14 purposes. I thought it would be of great assistance
15 to this trial if a map which we could see at one glance
16 would be presented showing the distribution of Japanese
17 subjects in Manchuria.

18 I think that this book entitled: "References
19 to the Problem of Manchuria and Mongolia--"

20 THE MONITOR: I think that at the present
21 moment this book entitled: "Reference to Manchurian
22 and Mongolian Problems" in in the office of Mr.
23 Magliano.
24

25 MR. BANNO: From one week ago we have been
trying to present this document to the Tribunal. But

1 in case it is not in the hands of the Tribunal, then it
2 is still -- I think it is still in Mr. Magliano's of-
3 fice; that is my assumption.
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1 THE PRESIDENT: You must tender the book
2 for identification and then tender an excerpt con-
3 taining the figures that you are putting on the
4 map; and then, as we allowed the Russians to put
5 their figures on a map, we may likewise allow you to
6 do so.

7 MR. BANNO: I understand clearly, and after
8 making the proper preparations I shall present it.

9 THE PRESIDENT: I understand that at page
10 29 of the Lytton Report we have these particulars.

11 MR. T. OKAMOTO: In any event, document
12 No. 260 will be entered later.

13 Now, we would like to call KANAI, Shoji
14 as a witness for the defense. Mr. OHARA will read
15 his affidavit and conduct the direct examination.
16

17 - - -

18 S H O J I K A N A I , called as a witness on
19 behalf of the defense, being first duly sworn,
20 testified through Japanese interpreters as
21 follows:

22 THE PRESIDENT: Who is in charge of this
23 witness? There is nobody at the lectern.

24 MR. OHARA: OHARA. I am in charge.

25 I present in evidence defense document
No. 883, which is an affidavit.

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1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Defense document No.
3 883 will receive exhibit No. 2399.

4 (Whereupon, the document above
5 referred to was marked defense document
6 No. 2399 and received in evidence.)

7 DIRECT EXAMINATION

8 BY MR. OHARA:

9 Q What is your name?

10 A My name is KANAI, Shoji.

11 THE PRESIDENT: The question was not
12 translated into English. If it was I did not hear
13 it, but I heard the answer.

14 THE MONITOR: Mr. President, it has been
15 interpreted, sir. Counsel asked, "What is your
16 name?"

17 THE PRESIDENT: Oh, do go ahead and ask
18 questions. Put on your earphones.

19 Q Witness, now I will show you exhibit 2399,
20 and will you look at it and examine it. Does this
21 document contain your testimony?

22 A That is so.

23 Q Do you find any mistakes in this document?

24 A From what I have seen I don't think there
25 are any mistakes.

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MR. OHARA: (Reading)

"Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country I hereby depose as follows:

"Name: KANAI, Shoji.

"Date of Birth: December 1, 1886.

"Address: No. 4376 Baba-cho, Ueda City, Chiisaagata-gun, Nagano Prefecture.

"Title: (Degree) Doctor of Medicine.

"Personal history: 1. From 1921 to 1922, a class member of the Health Section of the Secretariat of the League of Nations in Geneva.

"2. In 1923, Professor of bacteria pathology at the Keio-gijuku University.

"3. From 1924 to 1931, Chief of the Board of Health and concurrently Chief of the Hygienic Laboratory of the South Manchuria Railway Company.

"4. From July to September 1931, executive member of the Yangtze River Flood Relief Committee of Nanking Government (Chief of the Committee Sung tzu-wen).

"5. November 1931, Adviser to the Peace Preservation Committee of the Liaoning Province.

"6. December 1931, Supreme Adviser to the Mukden Provincial Government.

"7. 1932, Chief of the General Affairs Bureau

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1 of Mukden Province.

2 "8. 1933, Councillor of the Department of
3 Home Affairs, and Chief of the General Affairs Bureau
4 of Pinchiang Province (Harbin).

5 "9. 1935, Governor of Chientao Province.

6 "Before and after the Mukden Incident, I
7 was one of the executive members of the Yangtze River
8 Flood Relief Committee of China in Shanghai and was
9 engaged in the relief work of flood sufferers. (It
10 was estimated that the number of flood sufferers
11 amounted to fifteen millions at that time.)

12 "On the night of September 18, when I returned
13 from Shanghai to Dairen to make arrangements with the
14 head office of South Manchurian Railway Company con-
15 cerning the flood relief work, I was informed of the
16 outbreak of the Incident.

17 "Doctor MORITA, Fukumatsu of Mukden informed
18 me of it by long distance telephone.

19 "On the next day I presented myself to the
20 head office of South Manchurian Railway Company where
21 I reported to the President on the conditions of flood
22 relief in Shanghai and, upon completion of arrange-
23 ments with the authorities concerned, I again left for
24 Shanghai on the 21st.

25 "I came back to Shanghai to find that the

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1 outbreak of the Mukden Incident aggravated anti-
2 Japanese atmosphere in Shanghai. Finding it rather
3 difficult for me to continue my work, I returned to
4 Dairen from Shanghai in the early part of October and
5 I continued in the service as Chief of the Sanitary
6 Section of South Manchurian Railway.

7 "I remember that it was about October 11 or
8 12. I was asked by Mr. YAMAGUCHI, Juji, the then
9 resident of Mukden, to visit him as he said he had
10 something to consult with me, and I went there, taking
11 two days' furlough from the Company.

12 "In Mukden at that time railway traffic
13 other than South Manchurian Railway was suspended,
14 communications were interrupted, factories and govern-
15 ment offices were closed and there were a large number
16 of unemployed and vagabonds.

17 "Among the native population within the walled
18 city of Mukden, which was said to number 280,000,
19 70,000 were unemployed and vagabonds who were no
20 better than beggars in their actual living conditions.

21 "I felt that in order to relieve these
22 afflicted people, it was absolutely necessary, to
23 provide them with employments by restoring various
24 economic mechanisms and to promote circulation of goods
25 by restoring communications. I did my best in following

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1 on this line. Moreover, I endeavored to arrange free
2 food to those who had nothing to eat.

3 "My relation to the South Manchuria Railway
4 Company was as follows:

5 "Upon my arrival at Mukden, I came to the
6 conclusion that the situation there, as mentioned above,
7 could not be settled by a few days' efforts and would
8 drag on. So I requested the Company for my resigna-
9 tion twice by telegram, but it was not accepted after
10 all.

11 "Since I came to Manchuria, I have had two
12 occasions to engage in relief works of the Chinese:

13 "In 1924, when Chang Tsuo-lin fought with
14 some forces of the Peking district, I invited Dr.
15 MOTEKI, Professor of Surgery at the Keio University,
16 from Japan and dispatched a rescue party in order to
17 treat the injured on both sides.

18 "In 1925, a rebellion occurred in Chang
19 Tsuo-lin's Army (Kuo Sung-ling's rebellion). As the
20 battle fronts were near the track of the South
21 Manchuria Railway, I made preparation to admit those
22 who were injured in the battle, both soldiers and
23 civilians for treatment at some of the hospitals
24 attached to South Manchurian Railway in the area from
25 Mukden to Tashihchiao.

1 "As the adviser to the Peace Preservation
2 Committee of Liaoning Province, I was never present
3 personally at the committee meetings involving myself
4 in its actual business. My chief task was to form a
5 connecting link between the Japanese and foreigners
6 in connection with the measures to be taken following
7 the outbreak of the Incident."

8 THE PRESIDENT: We will recess for fifteen
9 minutes.

10 (Whereupon, at 1445, a recess was
11 taken until 1500, after which the proceedings
12 were resumed as follows:)

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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. OHARA.

MR. OHARA: I shall continue reading:

"Main works of the committee were to preserve public peace, to put people's mind at rest and to stabilize currency.

"The aim of the Committee's works was to restore everything to pre-Incident conditions.

"Then, when the Government of Mukden Province was set up in November, 1931, I was cordially invited by that Government to be the Supreme Advisor.

"The duty of the Supreme Adviser was almost the same as that of the position I held under the Peace Preservation Committee.

"The principal works of the Provincial Government were maintenance of public peace, re-arrangement of prefectural governments, repayment of internal and external debts of the former Government of Mukden Province, settlement of accounts for purchased articles, price stabilization of staple food, relief of the poor in the Province, et cetera.

"As for the question of the Self-Government Guidance Organization, I had no direct connection

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1 with it. But I know that the Organization was
2 presided by Mr. YU Chung-han, who was deeply inter-
3 ested in local autonomy; its principal positions
4 were occupied by Manchurian natives; some promising
5 Japanese Youngmen took part in it; and it was
6 vigorously carrying on its main task of promoting
7 self-government in each local prefecture.

8 "I know neither its internal structure nor
9 its actual activities.

10 "As to the Concordia Association, I know
11 neither the events leading to its foundation nor
12 the details of its actual activities, for I had no
13 direct connection with it as in the case of the
14 Self-Government Guidance Organization. At the
15 early stage of its existence, I had an occasion to
16 advise that the Association should be a group of
17 exclusively interested civilians with the purpose
18 of promoting concord of the five races and removing
19 difficulties of the people at large.

20 "The Manchuria Youngmen's League was a
21 purely civilian organization formed in 1928 by in-
22 terested Japanese and Korean young people staying
23 in Manchuria.

24 "The activities of the League was primarily
25 directed to such ethical and social movements among

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1 young people, as the Dedication of one sen per day
2 movement, the movement against mah-jong, the move-
3 ment for wider use of bicycles, the travelling per-
4 formance of excellent movies, the encouragement of
5 land cultivation, the flourishing of Manchurian
6 industry, and so on.

7 "As the negotiations between Japan and Man-
8 churia grew critical the League started to conduct
9 its own investigation and to publish its own find-
10 ings. This was because the League desired to clarify
11 the real truth of the situation and to guide young
12 people in passing correct judgements on the situation.

13 "It is shown in the statement made by the
14 chief of the board of directors that the Young
15 Men's League was not a political organization.

16 "While I was in the service of the League
17 of Nations, I was deeply impressed by the complete
18 unity of the four racial peoples, viz. Germans,
19 Italians, French and Romans in Switzerland as well
20 as the international cooperation in the League of
21 Nations. Therefore I could not see the troubles
22 existing between Japan and Manchuria without feel-
23 ing the absolute necessity of two principles, viz.
24 self-determination and cooperation among peoples.
25 So while I was in the posts of the adviser and then

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1 the chief director of the Manchurian Young Mens
2 League, I inspired the Japanese young men in Man-
3 churia with these two principles, which were widely
4 supported by the majority of the Japanese young men
5 in Manchuria.

6 "The members of the Manchuria Young Men's
7 League were as many as 5,000 in Manchuria. They
8 were found even among the members of Concordia
9 Association and the Self-Government Guidance Organi-
10 zation.

11 "The Manchurian Young Men's League was
12 voluntarily dissolved soon after the foundation of
13 Manchoukuo.

14 "So far as I know, I heard nothing about
15 the creation of a new state at the beginning of the
16 incident.

17 " But it is a fact that the members of the
18 civilian party in Manchuria, Mr. WAN Yun-chiang,
19 Yu Chung-hen and YUAN Chin-kai entertained such an
20 idea as 'securing borderlines and putting people's
21 mind at rest,' which is the counterpart of the idea
22 held by the militarist party headed by CHIANG Tsuo-
23 lin. The reason for this idea was as follows:
24 Whenever the head of the militarist party, CHIANG
25 Tsuo-lin sent his army to the Peking districts with

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1 the ambition to gain control of the central areas,
2 the war expenses were always burdens on the local
3 people. With a view to this fact, the people in
4 the three Eastern Provinces united to keep them-
5 selves away from the influence of political changes
6 in the central areas.

7 "As for the establishment of Manchukuo, I,
8 being an adviser to the Provincial Government, had
9 nothing to do with the movement.

10 "I devoted myself to the maintenance of
11 public peace in the Province and the others as I
12 mentioned before.

13 "In connection with the movement to create
14 a new state which was conducted by the North-Eastern
15 Administrative Committee, I know nothing but the
16 reports which appeared in the newspapers.

17 "Concerning the opium problem: During my
18 stay in Europe from 1920 to 1922 I served as an
19 assistant to Dr. MIYAJIMA, Mikinosuke, a member of
20 the suite of the Japanese Delegate to the League
21 of Nations Opium Conference. Accordingly, I, as a
22 local official in Manchuria, discharged my duty of
23 controlling opium in strict conformity with the spirit
24 of International Conscience.

25 "The detection and control of secret cul-

1 tivation of opium in far remote districts were
2 carried out by using planes.

3 "Secret smoking, traffic and transporta-
4 tion of opium were rigidly controlled.

5 "I am of the opinion that the monopoly
6 system is quite a suitable measure in order to realize
7 gradual decrease of opium smokers if it is accompanied
8 with thorough administrative control.

9 "It is evidently the result of the opium
10 control in Manchuria that the number of opium-smokers
11 not only among the higher officials but also among
12 the younger ones has so remarkably decreased.

13 "On this 25th day of March, 1947, at Tokyo,

14 "Deponent: KANAI, Shoji (seal).

15 "I, BANNO, Junkichi, hereby certify that
16 the above statement was sworn by the Deponent, who
17 affixed his signature and seal thereto in the
18 presence of this Witness.

19 "On the same date, at the same place.

20 "Witness: BANNO, Junkichi (seal)

21 MR. OHARA: Your Honor, I have just finished
22 reading the affidavit, but there is one point that
23 I would like to ask at this present time. May I
24 ask a supplementary question concerning -- conduct
25 a supplementary interrogation?

KANAI

DIRECT

1 THE PRESIDENT: At what length? The pur-
2 pose of this evidence in affidavit is to avoid long
3 examinations. If you are going to add a long examina-
4 tion, the purpose is defeated.

5 MR. OHARA: Just one question, your Honor

6 DIRECT EXAMINATION (Continued)

7 BY MR. OHARA:

8 Q Mr. Witness, from which Manchurian did you
9 hear for the first time that there was a movement
10 for the foundation of a Manchukuan State?

11 A From Yu Chung-hen.

12 Q When and where did you hear that?

13 A After the founding of the State. I with-
14 draw that statement; after the outbreak of the Inci-
15 dent.

16 Q Where and on what occasion was that?

17 A I don't correctly recall the place, but it
18 was after the outbreak of the Incident while I was
19 in Mukden.

20 MR. OHARA: Your Honor, there is a clear
21 mistake in this affidavit, so we wish to have per-
22 mission to correct it.

23 Q Your stay in Geneva -- was it from 1911 or
24 from 1921?

25 A From 1921.

KANAI

DIRECT

MR. OHARA: The direct examination is over.

1 MR. OHTA: I am counsel for defendant
2 DOIHARA. My name is OHTA, Kinjiro.

3 I wish to be permitted to conduct a very
4 brief direct examination. I wish to ask the wit-
5 ness a brief question concerning the connections
6 between the Kwantung Army and opium.

7 THE PRESIDENT: Brigadier Quilliam.

8 BRIGADIER QUILLIAM: If it please the
9 Tribunal, it is submitted that this is a breach of
10 the rule laid down by the Tribunal with regard to
11 affidavit evidence. This is adding to the direct
12 examination. It is not a cross-examination that the
13 counsel proposes to make.
14

15 THE PRESIDENT: I don't think the Court
16 will have any objection to one or two questions,
17 but we are not going to have lengthy examinations
18 imposed on the affidavits.

19 MR. OHTA: I will make it as brief as
20 possible.

21 DIRECT EXAMINATION (Continued)

22 BY MR. OHTA:

23 Q Did the special organ ever handle opium?

24 THE MONITOR: That is, the Special Service
25 organ.

KANAI

DIRECT

What do you say to that?

1 A I have never heard anything in connec-
2 tion with opium while I was in the post of adviser.

3 Q Is it the same with respect to the Kwantung
4 Army?

5 A Yes, absolutely.

6 MR. OHTA: That is all, sir.

7 Thank you very much.
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KANAI

DIRECT

1 THE PRESIDENT: Brigadier Quilliam.

2 BRIGADIER QUILLIAM: May it please the
3 Tribunal, the prosecution has no questions.

4 THE PRESIDENT: I am not surprised.

5 The witness is released on the usual terms.

6 (Whereupon, the witness was
7 excused.)

8 MR. OHARA: Your Honor, Mr. Levin wishes
9 to say a word or two. I wish to present Mr. Levin.

10 THE PRESIDENT: Mr. Levin.

11 MR. LEVIN: As indicated by my esteemed
12 colleague, Mr. OKAMOTO, an arrangement has been
13 entered into between the prosecution and defense to
14 make agreements in advance in relation to undisputed
15 facts which it is desired to present to the Tribunal.
16 This, it is believed, will save a great deal of time
17 and expedite the progress of the trial. The prose-
18 cution has been extremely cooperative in this matter.

19 Stipulated Facts No. 1 relates to a series
20 of treaties and agreements giving Japan certain rights
21 and privileges in China, and as referred to therein
22 are self-explanatory.

23
24 For the convenience of the Members of the
25 Tribunal in following the text of the stipulations
between us, I ask the Clerk to kindly give to each

1 Member of the Court copies of our agreement, and I
2 shall proceed to read them, omitting formal parts:

3 "IT IS STIPULATED AND AGREED by and between
4 the prosecution and the defense that the following
5 facts may be read into evidence:

6 "(a) On July 21, 1896, Japan and China
7 entered into a Treaty and Protocol of Navigation
8 and Commerce regulating the right of Japanese
9 Nationals in China with respect to entry, residence,
10 business, rent or lease of land and immovable
11 property in the appointed area, station of consul,
12 employment of Chinese, the levy of import and export
13 duties, the extent of applicability of extra-terri-
14 toriality, and containing a most favored nation
15 clause. In 1903 a supplement to this Treaty was
16 executed.

17 "(b) On December 22, 1905, a Treaty and
18 Subsidiary Agreement were entered into between
19 Japan and China concerning Manchuria in which China
20 recognized Japan's succession to Russian interests in
21 Manchuria to the extent that the same passed under
22 Articles V and VI of the Treaty of Portsmouth and
23 which provided for the improvement and management of
24 the Antung-Mukden Railway, the exoneration of taxes
25 on materials required for the South Manchuria Railway

and certain matters concerning residential quarters.

1 "(c) On May 30, 1907, Japan and China
2 entered into an Agreement for the Establishment of
3 a Maritime Office in Dairen and for the Regulation
4 of Navigation in Inland Water Streams, whereby they
5 regulated the customs office in Dairen and gave to
6 Japan a limited right of navigation through inland
7 waters upon receipt of inland water certificates.
8

9 "(d) On September 4, 1909, Japan and China
10 entered into an Agreement on Five Problems, wherein,
11 (inter alia), they regulated the establishment of
12 certain specified railways and the operation of
13 certain specified coal mines.

14 "(e) On September 4, 1909, Japan and
15 China entered into a Treaty concerning Chientao,
16 regulating the residence of Koreans and the pro-
17 tection of Korean property in Chientao.

18 "(f) On November 22, 1937, an Agreement
19 was entered into by Japan and Manchukuo for the
20 abrogation of Japan's rights of extra-territoriality
21 in Manchukuo and for the concession of administrative
22 rights in the South Manchuria Railway Zone by Japan
23 to Manchukuo. This was proclaimed by Japan in the
24 Imperial Rescript of December 1, 1937.

25 "DATED at the War Ministry Building, Tokyo,

1 April 1, 1947.

2 Signed for the Prosecution by Kurt Steiner,
3 and for the Defense by Michael Levin.

4 I now come to the stipulated facts No. 1-A,
5 to which the prosecution objects for legal reasons,
6 but there is no question concerning the execution
7 and existence of those documents. It is believed
8 that in logical sequence this stipulation should
9 be read into the record at this time, and the
10 objections argued when evidence is adduced in re-
11 lation to claimed rights under said treaties.

12 THE PRESIDENT: Mr. Tavenner.

13 MR. TAVENNER: If it please the Tribunal,
14 the statement by counsel goes beyond the agreement
15 that the prosecution and the defense reached, and
16 I think I should explain that at this time. We have
17 not agreed that matters which we desire to object
18 to should be read into evidence.

19 THE PRESIDENT: What harm in reading those?
20 If the documents were tendered, we would have as many
21 particulars as are given here in the record. They
22 have to be described in terms longer, if anything,
23 than these.

24 MR. TAVENNER: As a matter of principle we
25 thought we should not begin by permitting the reading

1 into evidence of matters which the Court has not
2 ruled upon as being admissible.

3 THE PRESIDENT: Suppose there was no such
4 agreement that you had come to, no qualified agreement;
5 the document would be tendered, it would be described
6 at great length, and there would be argument at
7 considerable length. What would be saved by following
8 that course? All that would still go into the
9 transcript.

10 MR. TAVENNER: Of course, the comment of
11 counsel would be a part of the transcript, but the
12 document itself would not be.

13 THE PRESIDENT: Nothing is tendered until
14 we decide on these points. That is what I understand.
15 Nothing is admitted, I should say.

16 If you want to keep these documents out of
17 the record, we are with you there, unless they are
18 admitted eventually.

19 Have you any objections to these points being
20 decided now?

21 MR. TAVENNER: We wanted them decided now,
22 and then the record will not be encumbered by the
23 recital of matters which may be rejected at a later
24 time.

25 THE PRESIDENT: Well, I could see nothing

1 wrong with your suggestion, Mr. Tavenner, but I
2 did not know that Mr. Levin was suggesting anything
3 different. We can decide these points forthwith.
4 As far as I can judge, I do not think the Tribunal
5 has any objection to deciding them now.

6 MR. TAVENNER: That is the entire point that
7 I was making. Counsel contended that they desired
8 to read it into evidence and have the Tribunal pass
9 on it when other evidence is introduced later
10 connecting it up with their points.

11 THE PRESIDENT: No, we will not agree to
12 any procedure that means that we are to let into
13 the record documents upon which we have not passed
14 any judgement.

15 MR. TAVENNER: I have no special argument
16 to make regarding our objections to these documents.
17 Their irrelevancy and immateriality appears plainly
18 upon their face, and we object on those grounds.

19 THE PRESIDENT: Mr. Levin.

20 MR. LEVIN: Mr. President, I take it I need
21 hardly state to the Tribunal that I would not knowingly
22 violate any agreement that I had entered into with
23 the prosecution; and as Mr. Tavenner has indicated
24 to me just now, he did not intend to make that
25 inference at all.

1 It seemed to us in view of the fact that in
2 the stipulation itself, that is, Stipulation No. 1-A,
3 that the truth and correctness of the facts are
4 admitted, that there could be no objection at this
5 time to the reading into the record the facts
6 themselves.

7 I would rather prefer to withdraw the
8 application and the right to read it at this time,
9 if the Court is going to pass upon the relevancy
10 of the documents. My reason for that being this,
11 if the Tribunal pleases: It is intended to offer
12 evidence to connect up these documents with the
13 evidence that is to be tendered; and it would seem
14 to me that the Court could much more intelligently
15 pass upon the relevancy and materiality of the
16 documents at that time when they are tendered in
17 relation to the evidence that is offered rather
18 than at this time when we have the stipulation merely
19 as to the correctness of the facts indicated in the
20 stipulation.

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1 THE PRESIDENT: You are in control, Mr.
2 Levin. All you have got to do is to withdraw this
3 document, ask us not to consider it and then tender
4 the evidence in due course and let us pass judgment
5 then.

6 MR. LEVIN: Then, with the Court's permission,
7 if I may, I desire to withdraw the stipulated facts
8 No. 1-A at this time.

9 THE PRESIDENT: Mr. Tavenner.

10 MR. TAVENNER: If your Honor please, as
11 this has been the first instance in which there has
12 been an attempted stipulation of facts, it might be
13 well to state to the Court what arrangement has been
14 made between the prosecution and the defense and
15 possibly read that into the transcript.

16 THE PRESIDENT: Agreements on facts is
17 common enough in civil proceedings and in some countries
18 in criminal proceedings. Is there anything special
19 about this agreement that they should mention what it
20 is?

21 MR. TAVENNER: I see of no special reason for
22 it.

23 THE PRESIDENT: You might start a debate
24 about nothing.

25 MR. TAVENNER: I would like to state, however,

1 that I meant no -- to make no inference of improper
2 conduct toward defense counsel -- by defense counsel.

3 MR. LEVIN: We expect, Mr. President, in
4 the future to enter into quite a number of these
5 stipulations and I believe many of these will probably
6 be entered into verbally and not in writing and we
7 shall have no difficulty, I am sure.

8 Mr. President, Mr. Mattice will now proceed
9 with Subdivision II of this phase of the case.

10 THE PRESIDENT: Mr. Mattice.

11 MR. MATTICE: May it please the Tribunal, we
12 come now to Section II or Subdivision II of Division
13 No. 2, the Manchurian Phase of the defense. This
14 section of Division 2 relates to the Mukden Incident
15 and the developments down to the time of the establish-
16 ment of the independence of Manchuria. The Language
17 Section is referred to page 4 of the running commentary,
18 paragraph beginning with the name "HONJO."

19 The witness HONJO will be called at this
20 time. He will be examined by Mr. BANNO.

21 MR. BANNO: I wish to call HONJO Kazuo, as a
22 witness for the defense.

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HONJO

DIRECT

1 K A Z U O H O N J O, called as a witness
2 on behalf of the defense, being first
3 duly sworn, testified through Japanese
4 interpreters as follows:

DIRECT EXAMINATION

BY MR. BANNO:

Q The name of the witness, please?

A HONJO, Kazuo.

Q Your present address?

A No. 8 Uenohara, Nakano-ku, Tokyo.

Q How old are you?

A 42.

13 Q I shall now show you defense document
14 No. 244.

15 THE PRESIDENT: Oh, do continue with the
16 examination.

17 MR. BANNO: Have the witness shown defense
18 document 244.

19 I tender in evidence defense document 244.
20 It is the affidavit of HONJO, Kazuo.

21 THE PRESIDENT: Has he sworn to it yet? Has
22 he said it is his affidavit?

MR. BANNO: I understand.

23
24 Q I think that affidavit, defense document No.
25 244 is in your hands now. Is there no mistake about

HONJO

DIRECT

1 it, that that is your affidavit?

2 A This is my affidavit.

3 MR. BANNO: I should like to tender in
4 evidence defense document document No. 244.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Defense document No.
7 244 will receive exhibit No. 2400.

8 (Whereupon, the document above re-
9 ferred to was marked defense exhibit No. 2400
10 and received in evidence.)

11 MR. BANNO: I shall read defense document
12 244, exhibit 2400. Since the formalities are not
13 strictly necessary I should like to omit it.

14 THE PRESIDENT: That is approved.

15 MR. BANNO: (Reading)

16 "1. I am the eldest son of the late HONJO,
17 Shigeru. I lived in the city of Urawa in order to
18 serve at the Urawa Army Provisions Branch Depot at
19 Kita-Urawa, Urawa City, November, 1945. As November,
20 20, 1945 was a holiday, I happened to be at my father's
21 residence at No. 8, Uenohara Nakano-ku, Tokyo-to.

22 "2. My father reported at the Occupation
23 Guidance Institute within the ex-Army General Staff
24 College building at Aoyama Ichhome, Akasaka-ku,
25 Tokyo-to early in the morning on that day. Upon

HONJO

DIRECT

1 receipt of the information from the Institute that
2 my father committed suicide at about 10:00 a.m.

3 I hastened to the place and I confirmed my father's
4 death, on the spot, in the Chief Manager's room.

5 "3. There were two testaments on the table
6 in that room, the one was addressed to KAWAMURA,
7 Kyoichi, his secretary and the other was to Lieutenant
8 General NUKADA. As it was mentioned in the testament
9 addressed to the secretary that his will would be
10 found in his black leather satchel kept in the air
11 raid shelter at the residence, upon returning later,
12 I opened the bag in question and found his will in
13 it. It was the document, as attached, written in 24
14 lines on rolled letter-paper of "Hosho", paper. I
15 affirm the complete text of the letter, the seal and
16 the written signature to be my father's handwriting
17 in every particular."

18 I should like to tender in evidence defense
19 document No. 276, which is the testament.
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HONJO

DIRECT

1 MR. BANNO: I should like to tender in evidence
2 defense document No. 274, which is a testament. I
3 wish to show defense document No. 274 to the witness.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Defense document No. 274
6 will receive exhibit No. 2401.

7 (Whereupon, the document above
8 referred to was marked defense exhibit
9 No. 2401 and received in evidence.)

10 MR. BANNO: May I now read exhibit 2401:
11 "Testament.

12 "Though retired, I, who for years held im-
13 portant military positions, feel utterly overawed for
14 having led the Empire to today's unprecedented state
15 of near ruin. I can only atone for my sin by dying
16 ten thousand deaths.

17 "The railway explosion at the height of the
18 anti-Japanese movement led to the Manchurian Incident
19 and the Kwantung Army had no choice except to take
20 action from the standpoint of selfdefense. No instruc-
21 tions of any sort were received from the Government or
22 the Military High Command.

23 "In leaving this world bearing full responsi-
24 bility, I, hereby, pray from the bottom of my heart
25 for the health and longevity of the Emperor, for the

HONJO

DIRECT

1 protection of our national constitution and for the
2 restoration of the Empire.

3 "September 1945. HONJO, Shigeru."

4 BY MR. BANNO (Continued):

5 Q Is there no mistake with respect to this
6 testament as being that of HONJO, Shigeru?

7 A No mistake whatsoever.

8 MR. BANNO: With your permission, your Honor,
9 I wish to make just a brief -- one supplementary ques-
10 tion of the witness.

11 THE PRESIDENT: One question.

12 Q General Shigeru HONJO, his Excellency Shigeru
13 HONJO, after he retired as Chief of the Kwantung Army
14 what was his official career after that?

15 A In August 1932 he was appointed Supreme War
16 Councillor; he was appointed in April 1933 as Chief
17 Aide de Camp to the Emperor. Since resigning from the
18 army he was President of the Military Protection Associ-
19 ation in 1938 -- April 1938 -- and was appointed Privy
20 Councillor in April, 1945.

21 THE INTERPRETER: Correction: In February
22 1945.

23 MR. BANNO: That is all, sir.

24 MR. TAVENNER: There are no questions by the
25 prosecution, your Honor.

1 THE PRESIDENT: The witness is released on the
2 usual terms.

3 (Whereupon, the witness was excused.)

4 MR. BANNO: Next I wish to call the witness
5 KAWAMURA, Kyoichi.

6
7 K Y O I C H I K A W A M U R A, a witness called on
8 behalf of the defense, being first duly sworn,
9 testified through Japanese interpreters as
10 follows:

11 DIRECT EXAMINATION

12 BY MR. BANNO:

13 Q The name of the witness, please?

14 A KAWAMURA, Kyoichi.

15 Q Your address at the present time?

16 A No. 17 Ichigaya Kawada-machi, Shinjuku-ku,
17 Tokyo.

18 Q Your age?

19 A 55.

20 Q I am going to show you defense document No.
21 233. Is there no mistake that this is your affidavit?
22 Is there no mistake?

23 A No.

24 MR. BANNO: I wish to tender in evidence
25 defense document No. 233.

KAWAMURA

DIRECT

1 THE PRESIDENT: Admitted on the usual terms.
2 CLERK OF THE COURT: Defense document No.
3 233 will receive exhibit No. 2402.

4 (Whereupon, the document above
5 referred to was made defense exhibit No.
6 2402 and received in evidence.)

7 MR. BANNO: I shall now read defense docu-
8 ment No. 233, exhibit 2402, the affidavit of KAWAMURA,
9 Kyoichi:

10 "The late Ex-general HONJO, Shigeru was
11 president of the Vocational Guiding Association in the
12 autumn of 1945, and I worked as his secretary.

13 "I confirm that the appended booklet entitled
14 'The Truth of the Manchurian Incident', which covers
15 sixteen sheets of Japanese paper is what I recorded,
16 based upon the manuscript which had gradually been
17 dictated to me by himself from about the middle of
18 September to the early part of October 1945 and then
19 was corrected several times and was finally approved
20 by him.

21 "November 26, 1946 (the 21st year of Showa.)"

22 BY MR. BANNO (Continued):

23 Q I wish to show defense document No. 227 to the
24 witness. Is there no mistake that that was the article
25 entitled "True Nature of the Manchurian Incident" as

KAWAMURA

DIRECT

1 dictated by General HONJO and taken down in manuscript
2 by you?

3 A There is no mistake.

4 MR. BANNO: I tender in evidence defense
5 document No. 227.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document No. 227
8 will receive exhibit No. 2403.

9 (Whereupon, the document above
10 referred to was marked defense exhibit
11 No. 2403 and received in evidence.)

12 THE PRESIDENT: Circulate that document.

13 We will adjourn until half past nine
14 tomorrow morning.

15 (Whereupon, at 1600, an adjournment
16 was taken until Thursday, 3 April 1947, at
17 0930.)
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